

STATE OF CALIFORNIA  
THE RECLAMATION BOARD  
REGULAR BOARD MEETING

RESOURCES BUILDING  
1416 NINTH STREET  
AUDITORIUM  
SACRAMENTO, CALIFORNIA

Friday, September 21, 2007

9:11 A.M.

KATHRYN S. SWANK, CSR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 13061

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Rose Marie Burroughs, Member

Ms. Teri Rie, Member

Ms. Emma Suarez, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Ms. Nancy Finch, Legal Counsel

Mr. Dan Fua, Supervising Engineer

Mr. Scott Morgan, Legal Counsel

Ms. Lorraine Pendlebury, Staff Assistant

ALSO PRESENT

Mr. Howard Brown, National Marine Fishery Service

Mr. Paul Brunner, TRLIA

Mr. Stein M. Buer, SAFCA

Mr. Paul Henson, U.S. Fish & Wildlife Service

Colonel Thomas Chapman, U.S. Army Corps of Engineers

Mr. Bill Darsie, Kjeldsen, Sinnock & Neudeck

APPEARANCES CONTINUED

Mr. Tom Eres, Hofman Ranch

Mr. Scott Flint, Department of Fish & Game

Mr. Tom Foley, Concerned Citizens for Responsible Growth

Mr. Jeff Fong, Department of Water Resources

Mr. David Gutierrez, Department of Water Resources

Mr. Les Heringer, M&T Ranch, Butte Basin

Mr. Reggie Hill, L.S.J.L.D.

Mr. Rod Mayer, Department of Water Resources

Mr. Eric McGrath, Department of Water Resources

Mr. Mike Mirmazaheri, Department of Water Resources

Ms. Meegan Nagy, U.S. Army Corps of Engineers

Mr. Ricardo Pineda, Department of Water Resources

Mr. Ric Reinhardt, Three Rivers Levee Improvement  
Authority

Mr. Thomas Rice, Rice River Ranch

Mr. Kasey Schimke, Department of Water Resources

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

## INDEX

	PAGE
1. Roll Call	1
2. Closed Session - None	
3. Approval of Minutes - May 18, 2007; June 8, 2007; June 15, 2007; July 20, 2007	3
4. Approval of Agenda	4
5. Public Comments	30
6. Report of Activities of the Department of Water Resources	35
7. Three Rivers Levee Improvement Authority Monthly Report	78

## CONSENT

8. Consent Calendar	229
A. Agricultural Lease No. 2007-1-RB, Sutter County	
Consider renewal of Lease No. 2007-1-RB, Mr. David E. Nall, for a period of five years from May 1, 2007, to April 30, 2012, for agricultural purposes.	
B. Agricultural Lease No. 2007-2-RB, Yolo County	
Consider renewal of Lease No. 2007-2-RB, River Garden Farms, for a period of five years from May 1, 2007, to April 30, 2012, for agricultural purposes.	
C. Agricultural Lease No. 2007-3-RB, Sutter County	
Consider renewal of Lease No. 2007-3-RB, Mr. Ross Madden, for a period of five years from May 1, 2007, to April 30, 2012, for agricultural purposes.	

## INDEX CONTINUED

## PAGE

D. Pipeline Easement, City of Fairfield,  
Solano County

Consider approval of an easement to the City  
of Fairfield for a water pipeline across  
Reclamation Board fee-owned property located  
at LedgeWood Creek near the City of Fairfield.

## REQUESTED ACTIONS

9. Applications - None

## PROJECT OR STUDY AGREEMENTS

- |     |   |     |
|-----|---|-----|
| 10. | Consider Approval of Changes to the Delta<br>Levees Subventions Guidelines and Requested<br>Reimbursement Amounts | 129 |
| 11. | Modifications to Levee at Wadsworth Canal,<br>Sutter County   | 149 |

## INFORMATIONAL BRIEFINGS

- |     |   |     |
|-----|---|-----|
| 12. | Proposed Title 23 Regulatory Changes -<br>Discussion Only             | 158 |
| 13. | Lower San Joaquin River Flood Control<br>Project Operational Concerns | 173 |

## BOARD REPORTS

- |     |   |     |
|-----|---|-----|
| 14. | Board Comments and Task Leader Reports      | 236 |
| 15. | Report of Activities of the General Manager | 5   |
| 16. | Future Agenda                               | 250 |
| 17. | Adjourn                                     | 260 |
|     | Reporter's Certificate                      | 261 |

1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and  
3 gentlemen. Sorry for the delay in opening the meeting.

4 Welcome to the State Reclamation Board meeting for  
5 the month of September.

6 For the record, let it be known that the Board did  
7 not have a closed session this morning as agendized under  
8 Item 2 of the agenda. And with that, we'll begin  
9 business.

10 Mr. Punia, would you call the roll, please.

11 GENERAL MANAGER PUNIA: Jay Punia, general manager  
12 of the Reclamation Board.

13 We'll start. Board Member Rose Marie, present.

14 Board Member Lady Bug?

15 SECRETARY DOHERTY: Present.

16 GENERAL MANAGER PUNIA: Board Member Emma Suarez?

17 MEMBER SUAREZ: Present.

18 GENERAL MANAGER PUNIA: Vice President Butch  
19 Hodgkins?

20 VICE PRESIDENT HODGKINS: Present.

21 GENERAL MANAGER PUNIA: Board Member Teri Rie?

22 MEMBER RIE: Present.

23 GENERAL MANAGER PUNIA: President Ben Carter?

24 PRESIDENT CARTER: Present.

25 Thank you.

1           With that, I would like to first of all welcome  
2   Ms. Suarez to the Board. Ms. Suarez was appointed  
3   officially last week, I believe, by the governor to the  
4   Board. In addition to Ms. Suarez, we also have Mr. John  
5   Brown who was appointed. He was not able to join us today  
6   as he and his wife had made prior plans for going on  
7   vacation, quite a while ago. And so he is, I believe, in  
8   his motor home on his way to the North East, perhaps to  
9   see some -- take in some fall colors. But he will be  
10   joining us in October.

11           So Emma, I don't know if you would like to  
12   introduce yourself or say a few words. But Emma was a  
13   member of the Board two years ago and rejoins us. And we  
14   are very, very grateful to have her back.

15           MEMBER SUAREZ: Thank you very much. And good  
16   morning to everybody. I am Emma Suarez. And I'm an  
17   attorney by training, and hopefully nobody will hold that  
18   against me. And I can't say how happy I am to be back,  
19   watching the work of the Board for the past year and all  
20   the great work they have done. I've missed it and I'm  
21   happy that I have an opportunity to come back and rejoin  
22   them.

23           So thank you.

24           PRESIDENT CARTER: Thank you, Emma.

25           I also wanted to welcome a couple other

1 distinguished guests here. We have Colonel Tom Chapman  
2 who is the district engineer and commander of the  
3 Sacramento District. He's joined us today. And he was --  
4 he was recently placed into command here at the Sacramento  
5 District in August. He comes to us most recently from  
6 Italy, where he parle Italiano. And prior to that was the  
7 district commander of the Philadelphia District, among  
8 many other places around the world in his 22 years,  
9 23-year career with the Army.

10 So Colonel Chapman, welcome. Thank you for  
11 joining us today.

12 And we have several other distinguished guests  
13 here that we will be introducing here shortly.

14 What I would like to do is go ahead and get Items  
15 3 and 4 taken care of. And then we'll move on with the  
16 rest of the agenda.

17 So Item 3, approval of the minutes: For May 18,  
18 2007; June 8, 2007; June 15th, 2007; and July 20th, 2007.

19 We will entertain a motion to approve.

20 SECRETARY DOHERTY: Did everyone have a chance to  
21 look through those minutes?

22 I'm sure you did.

23 I would like to make a motion that we approve the  
24 minutes as presented.

25 MEMBER RIE: Second.



1           PRESIDENT CARTER: We have a motion and a second.

2           Any discussion?

3           All those in favor, indicate by saying "aye."

4           (Ayes.)

5           PRESIDENT CARTER: And opposed?

6           Motion carries unanimously.

7           Item 4, approval of the agenda.

8           Mr. Punia, did you have a couple of suggested

9 changes to the agenda for today?

10          GENERAL MANAGER PUNIA: Yes, a few items.

11          Item 15, Board Activities of the General Manager,  
12 a portion of this report, a briefing on the vegetation  
13 symposium, and the roundtable meeting which took place on  
14 August, we want to move it after the public comments. So  
15 if it's okay with the Board, my recommendation is we move  
16 that portion of the general manager's report after Item 5.

17          And Item No. 12, it's Proposed Title 23 Regulatory  
18 Changes. It's listed as an action item. But the staff  
19 has to work a little more before we can come to the Board  
20 with a solid recommendation for the Board's approval. At  
21 this time we are -- we will be able to brief the Board but  
22 we are not there yet, where we can ask the Board to take  
23 action.

24          So we are changing it from an action item to  
25 informational item.

1 SECRETARY DOHERTY: Which one?

2 GENERAL MANAGER PUNIA: Number 12.

3 PRESIDENT CARTER: I would suggest that we perhaps  
4 move the general manager's -- portion of the general  
5 manager's report that you discussed, forward. Let's -- if  
6 it pleases the Board, to move it ahead of public comment.  
7 That will give the public a chance to hear that and  
8 comment on that since it's not agendized.

9 So if that's okay with the rest of the Board.

10 MEMBER BURROUGHS: I move that we move forward  
11 with the changes as have been stated by Jay.

12 PRESIDENT CARTER: Okay.

13 SECRETARY DOHERTY: I will second that.

14 PRESIDENT CARTER: A motion and a second.

15 Any discussion?

16 All those in favor, indicate by saying "aye."

17 (Ayes.)

18 PRESIDENT CARTER: And opposed?

19 Motion carries.

20 Okay. With that, we will move on to the first  
21 part of the General Manager's Report.

22 GENERAL MANAGER PUNIA: Good morning, President  
23 Ben Carter and the Board Members. Jay Punia, general  
24 manager of the Reclamation Board.

25 I'm going to give you one portion of my briefing,

1 and then I will cover the rest of the General Manager's  
2 Report at a later time.

3 The briefing on the vegetation symposium and the  
4 roundtable meeting, which took place from 28th through  
5 30th, the symposium was on 28th and 29th sponsored by  
6 Sacramento Area Flood Control Agency, U.S. Army Corps of  
7 Engineers, Department of Water Resources, and the  
8 Reclamation Board.

9 And then subsequent to that symposium there was a  
10 roundtable meeting which took place here, at the Resources  
11 Building. So I'm going to give you a quick briefing on  
12 that.

13 Most of you may recall, we had a conference here  
14 in Sacramento, American Society of Civil Engineers and  
15 Society for American Military Engineers. And at that  
16 conference, General Van Antwerp gave a very inspirational  
17 speech. And he mentioned that if we have the right amount  
18 of people at the right place then we can accomplish great  
19 things. And our Board Member Rose Marie Burroughs took  
20 that to heart. And she gathered the right amount of  
21 people at the right place, on August 30th. And I'm glad  
22 to report that with her efforts, we accomplished a major  
23 milestone in this effort of vegetation management on  
24 California levees.

25 With this, I'm going to give you a quick

1 background on what we have accomplished and where we are  
2 going on this effort. And then we have jointly prepared a  
3 media communiqué on this subject, which we will release  
4 after my briefing.

5 And I want to acknowledge that I'm just here to  
6 brief you on this subject. The hard work was done by  
7 Board President Ben Carter, Board Member Rose Marie, and  
8 Stein Buer of SAFCA and Peter Buck to get this thing going  
9 and to accomplish this major milestone and this very  
10 difficult issue.

11 --o0o--

12 GENERAL MANAGER PUNIA: A little bit of  
13 background. Since Hurricane Katrina, the U.S. Army Corps  
14 of Engineers has determined that existing levee  
15 maintenance standards must be more rigorously enforced  
16 across the nation.

17 Then on that line, in April 2007, the Corps  
18 released a draft white paper on the treatment of  
19 vegetation within local flood damage reduction system.  
20 I'm sure that most of the people have seen the white  
21 paper, and that white paper created a lot of discussion  
22 among the local levee maintaining agencies.

23 In that white paper, the Board proposed that levee  
24 failed to meet -- the Corps has proposed that the levee  
25 had failed to meet these standards rated as unacceptable

1 with the following consequences. So there are two major  
2 consequences if the levee fails that they aren't meeting  
3 the Corps' vegetation management standards: They could  
4 lose the eligibility for federal assistance in post-flood  
5 levee rehabilitation program. And it's under Public Law  
6 84-99, the levee rehab vegetation program. The Corps made  
7 it very clear that if the local levee maintaining is not  
8 maintaining the vegetation, that they will no longer will  
9 be eligible for PL 84-99 assistance for the U.S. Army  
10 Corps of Engineers.

11 And once they made that determination, it has  
12 another significant consequence, that then once the Corps  
13 put the district on their ineligible list for PL 84-99,  
14 then that has consequences that the district will no  
15 longer enjoy the FEMA certification. And then that has  
16 the consequence on the National Flood Insurance Program on  
17 that locale.

18 After the white paper was issued, Sacramento Area  
19 Flood Control Agency took the lead and scheduled a  
20 symposium at a later month of August. Peter Buck and  
21 Stein Buer of SAFCA organized a very worthwhile symposium  
22 to discuss this subject.

23 The symposium brought together over 500  
24 scientists, engineers, and policymakers who shared  
25 substantial information about the risk, benefits, and

1 methods to manage vegetation on and near levees.

2           Following the symposium, senior leaders  
3 representing both flood management and resource protection  
4 agencies met on August 30th in a roundtable to discuss how  
5 they could cooperate in achieving better levee safety  
6 while protecting and enhancing the environmental values  
7 that Central Valley levees also provided.

8           I'm going to tell you, it was not an easy task.  
9 Ben, President Ben Carter, and Board Member Rose Marie  
10 were on the phone constantly for several days to gather  
11 the people, the right people -- and the timing was just  
12 right after the symposium -- to bring them in one room,  
13 and then bring those people who can represent and speak on  
14 the respective agencies they have.

15           So -- but they were successful -- they were  
16 consistent at modifying -- working with the state too  
17 long. I thought we may not be able to pull it. But with  
18 their consistent efforts, I think we were able to bring  
19 the right people at the right place.

20                               --o0o--

21           GENERAL MANAGER PUNIA: The following agencies  
22 participated in this roundtable discussion: The U.S. Army  
23 Corps of Engineers folks came from Washington D.C., San  
24 Francisco District Office, and obviously from the  
25 Sacramento District; U.S. Fish and Wildlife Service;

1 National Marine Fishery Service; California Department of  
2 Water Resources; California Department of Fish and Game;  
3 obviously, Reclamation Board participated; and Sacramento  
4 Area Flood Control Agency; and local district,  
5 reclamation, 2068. Mike Harr and Steve represented the  
6 local perspective in this meeting.

7 --o0o--

8 In this roundtable meeting, a phased systemwide  
9 plan will be drafted to include vegetation management  
10 requirements for Central Valley levees and adjoining  
11 channels. The maintaining agencies should defer  
12 substantial vegetation removal while the plan is being  
13 developed. That's the key agency. Otherwise, there was a  
14 hammer from the U.S. Army Corps of Engineers to cut the  
15 big trees and remove the vegetation to meet the standard.

16 So now we got some breathing room so that we are  
17 working collectively with all resource management agencies  
18 and the flood control agency to develop this plan. And in  
19 the meantime, the Corps is not forcing the standard right  
20 away. The plan will be collaboratively formulated, focus  
21 on public safety -- again, I want to stress that public  
22 safety is the number one priority -- and respect the  
23 public trust responsibilities of all involved agencies.

24 The State of California will take the lead,  
25 working closely with affected local maintaining agency.

1 And they will work very closely with the federal agencies  
2 to develop this plan. And Department of Water Resources  
3 is taking the lead on this effort.

4 --o0o--

5 GENERAL MANAGER PUNIA: The Corps and the State of  
6 California will continue to conduct levee inspections this  
7 fall, rigorously applying the Corps' existing maintenance  
8 standards. Preliminary "unacceptable" ratings regarding  
9 vegetation will not be used to decertify levees with the  
10 Corps levee rehabilitation program while this plan is  
11 being collaboratively developed.

12 So that's the key accomplishment of this  
13 roundtable discussion, that we will aggressively work to  
14 come up with a plan. But in the meantime, the Corps is  
15 not going to decertify the levee for PL 84-99 while we are  
16 developing this plan.

17 A draft framework for the plan will be available  
18 for stakeholder review in early 2008. We will be working  
19 closely with the stakeholder resource management agencies  
20 and federal conference to develop this plan.

21 No need to try to read this -- that we have a plan  
22 that we will be meeting again on October 12, this  
23 roundtable. And then we will be working aggressively to  
24 develop this phased plan.

25 The Phase 1 will be to address the vegetation on



1 the ground and the land side. The group decided that  
2 that's the more easier part, where we will be able to  
3 reach consensus. Once we reach consensus on that, then we  
4 will tackle the waterside slope of the levee.

5 And now we have participants from our roundtable  
6 discussion. If it's okay with the Board, I will invite  
7 them to address the Board for a few minutes too.

8 And we have a public media release developed,  
9 collectively, by all the participants, which you have a  
10 copy of that media release. And Lorraine has copies -- if  
11 the public needs a copy of the news media, we have extra  
12 copies here. And we will distribute it to the media  
13 house.

14 With this, I think we will invite people from the  
15 resource management agencies. We will start with the U.S.  
16 Army Corps of Engineers. Maybe Meegan or the colonel  
17 wants to say something on this.

18 COLONEL CHAPMAN: Good morning, President Ben  
19 Carter and Members of the Reclamation Board.

20 As was said earlier, my name is Colonel Tom  
21 Chapman. I'm the commander of the Sacramento District,  
22 U.S. Army Corps of Engineers. And it is a great  
23 pleasure -- it's an honor for me to be here. And it's a  
24 great pleasure for me to be here. As Ben said, Italy,  
25 California, I can't complain. It's not a bad deal.

1           What I want to do, if you will allow me, is to  
2   just say a couple of things: I want to assure the Board  
3   of the U.S. Army Corps of Engineers' commitment to this  
4   effort and to the flood risk management system in this  
5   region. With regard to the flood management system in  
6   this region, the U.S. Army Corps of Engineers' priorities  
7   are and remain public safety and reducing the risk of and  
8   damage to flooding. We understand our public trust  
9   responsibilities, and public safety will always be our  
10   number one priority.

11           As you know, and as Jay mentioned, we have a levee  
12   conference, we had a vegetation symposium, both recently.  
13   We had a visit by the assistant secretary of the Army for  
14   Civil Works, John Paul Woodley. We also had our own chief  
15   of engineers, with General Van Antwerp, all for good  
16   reason. And the message is that the focus and attention  
17   of the U.S. Army Corps of Engineers, even at the national  
18   headquarters level, is here and now.

19           We know that there are deficiencies with some of  
20   our levees. And those not associated with vegetation  
21   should be fixed now.

22           Collaboratively, obviously, and as Jay mentioned,  
23   we are working with the Reclamation Board, the SAFCA, the  
24   DWR, and all the natural resource agencies, to develop an  
25   updated national standard for levee vegetation. Without

1 compromising public safety, our intent is to develop  
2 solutions that will take into account the concerns of  
3 science and natural resources. That is our intent. And  
4 the final goal will be that the final status of all  
5 individual levees will be left within the federal system.  
6 That is what we would like to see and so that they would  
7 remain able to receive that federal funding.

8 One of the points I want to make is, regardless of  
9 the final status in the federal system for each individual  
10 levee, during a flood event, the Corps of Engineers stands  
11 ready. And this is regardless of the status of any levee.  
12 The Corps of Engineers stands ready during a flood event  
13 to provide assistance. And we will help protect life and  
14 property before the resources are overwhelmed.

15 So again, I thank you, Board Members and President  
16 Ben Carter, for having me today. It's my pleasure to be  
17 here. And I really look forward to continuing this  
18 partnership.

19 Thank you.

20 PRESIDENT CARTER: Thank you very much, Colonel  
21 Chapman.

22 GENERAL MANAGER PUNIA: I think we'll go -- the  
23 next is the U.S. Fish and Wildlife Service representative.

24 Peter, do we have anybody?

25 MR. HENSON: Good morning. I wanted to echo some

1 of Jay's comments and thank the Board and Ben and Rose  
2 Marie, in particular, for all the good work and for the  
3 perseverance you guys have done, holding this sort of  
4 group of hats together.

5 THE REPORTER: State your name, please.

6 MR. HENSON: Oh, sorry. My name is Paul Henson  
7 with U.S. Fish and Wildlife. I supervise all the  
8 Endangered Species field offices and operations in  
9 California, Nevada, Klamath Basin.

10 I guess I just want to reiterate that there's  
11 strong agreement amongst all the agencies, that I could  
12 tell, that public safety is a top priority. And we very  
13 much appreciate all the Army Corps's leadership and their  
14 responsibilities in this regard, and we want to support  
15 them all we can.

16 So to that point, we agree to work cooperatively,  
17 expeditiously, to enable repair, improvement, and  
18 maintenance of all levee systems and any deficiencies that  
19 might exist there.

20 It's the Fish and Wildlife Service's position  
21 that, in many cases, this vegetation is mutual and  
22 beneficial to levee integrity. In other cases, obviously,  
23 there are some concerns regarding access or integrity that  
24 vegetation might compromise. And we want to make sure,  
25 and work together, that the distinction between those two

1 categories is recognized and implemented on the ground and  
2 that that should be done as much as possible on a  
3 case-by-case basis.

4 So we look forward to working together to develop  
5 a plan with guidelines that give clear direction on where  
6 vegetation should be managed or removed, and where it can  
7 be retained. And that the best science, much of which was  
8 presented at the symposium that was sponsored, that Jay  
9 referred to, that best science is used in arriving at this  
10 determination.

11 So that's pretty much what I've been saying.

12 Thanks, again, for all your work.

13 PRESIDENT CARTER: Thank you, Mr. Henson.

14 GENERAL MANAGER PUNIA: National Marine Fishery  
15 Service.

16 MR. BROWN: President Carter, Members of the  
17 Board, thanks for the opportunity to speak with you today.  
18 The National Marine Fishery Service believes --

19 THE REPORTER: State your name, please.

20 MR. BROWN: Oh, I'm sorry. I'm Howard Brown, the  
21 National Marine Fishery Service here in Sacramento.

22 And we are pleased to have reached this agreement  
23 with the U.S. Army Corps of Engineers, the state, and the  
24 other stakeholders who have put in so much work to reach  
25 this point today.

1           And we're pleased to be able to work on developing  
2   a plan that will be protecting the public safety benefits,  
3   which we recognize as being very important, while also  
4   recognizing the natural resource benefits that the levees  
5   provide.

6           In California, the levees are very neat because in  
7   many cases they not only provide the flood protection, but  
8   they also serve as the river bank. This is particularly  
9   true in the Central Valley, where there was once a great  
10   riparian forest. And since the implementation of the  
11   levee program, this great riparian forest has dwindled  
12   quite substantially. And for these reasons, we believe  
13   it's important to carefully manage the remaining riparian  
14   values, and we believe that we can do this while also  
15   enhancing the public safety.

16           So with that, we look forward to the continued  
17   collaboration with the goal of achieving a sustainable,  
18   science-based solution for improving public safety, and  
19   repairing riparian habitat is essential to the recovery of  
20   anagamous fish in California.

21           Thank you.

22           PRESIDENT CARTER: Thank you very much, Mr. Brown.

23           GENERAL MANAGER PUNIA: Department of Water  
24   Resources. David?

25           MR. GUTIERREZ: My name is David Gutierrez. I'm

1 with the Department of Water Resources, the director of  
2 FloodSAFE.

3 After a very successful symposium on vegetation,  
4 we met a group of -- I think, important executives met to  
5 deal with the vegetation issue. And I thought it was a  
6 very successful roundtable. And I would like to thank  
7 Rose Marie and Ben for putting that together. I think we  
8 turned this around and we are going in the right direction  
9 on this particular issue. So appreciate that.

10 I would also like to indicate that the Department  
11 of Water Resources is committed, of course, to public  
12 safety. And we will -- I think everyone can be assured  
13 that public safety will not be compromised as we work  
14 through this issue on vegetation.

15 Vegetation is one of many issues associated with  
16 our levees. I think it's recognized; the roundtable  
17 discussed that. And it needs to be dealt with in a  
18 systematic manner. And I believe that we're going to be  
19 able to do that. And I think that's one of the key  
20 components of what we're going to need to address as we  
21 move through this opportunity to deal with the vegetation  
22 issues of our levees.

23 The State is committed to lead this effort, the  
24 vegetation issue. And I actually look at this as an  
25 opportunity. I believe this could be a model for the

1 future to delve in on this issue. We are committed to  
2 repair and upgrade our levees, as necessary. And we need  
3 to take all points of view in consideration while we do  
4 that.

5 The environment and the vegetation associated with  
6 the environment is certainly an important and valid point  
7 that we need to deal with. And we need to look at the  
8 science. We need to make sure that, in fact, we are smart  
9 about how we address this issue.

10 So I look forward to working with the Board, the  
11 rest of the members of our roundtable as we address this  
12 issue. And again, I appreciate this issue that the Board  
13 members have dealt with on this issue so far.

14 Thank you.

15 PRESIDENT CARTER: Thank you, Mr. Gutierrez.

16 GENERAL MANAGER PUNIA: Department of Fish and  
17 Game.

18 MR. FLINT: Good morning, President Carter and  
19 Members of the Board. My name is Scott Flint. I'm with  
20 the California Department of Fish and Game. I am the  
21 program manager for Environmental Review and Permitting,  
22 statewide, for Fish and Game.

23 The Department is pleased to participate in this  
24 collaborative effort to work on this -- work to resolve  
25 this tough issue on vegetation management on our levees.



1           From the Department's perspective, maintaining  
2   vegetation in appropriate places within the levee system  
3   is vital to the protection of wildlife resources and  
4   habitat resources. That's sustaining both sensitive and  
5   federally listed species. So we must come to a solution  
6   that works to protect those important environmental  
7   assets.

8           Again, I will just reiterate, the Department also  
9   is in agreement that public safety is a top priority in  
10  this process. And I just want to again thank Rose Marie  
11  and Ben, Mr. Ben Carter, for assembling the roundtable.  
12  This group is really the right people at the right time.  
13  And if anybody can resolve this issue, I'm confident this  
14  group can. Made a pretty good start at our first meeting  
15  and laid out a pretty aggressive plan of action. It's a  
16  tall order to resolve the issue, and our schedule is  
17  ambitious. But the Department comes ready to work hard  
18  towards that goal. And we're fully committed to  
19  participate as a partner with our sister state agencies  
20  and in collaboration with our federal resource and flood  
21  protection agency.

22           So thank you.

23           PRESIDENT CARTER: Thank you, Mr. Flint.

24           GENERAL MANAGER PUNIA: We'll reserve President  
25  Carter and Rose Marie's comment last. So at this time, I

1 would invite the state to give a staff perspective.

2 MR. BUER: Good morning, President Carter and  
3 Members of the Board. I'm Stein Buer, executive director  
4 for the Sacramento Area Flood Control Agency. And I first  
5 want to congratulate you on now seating a full board. You  
6 are now poised to enjoy great leadership at a critical  
7 time in California's history. I'm very excited about  
8 that. I think you will do great things in the coming  
9 years.

10 I also want to echo the accolades for Ben and Rose  
11 Marie for making this roundtable happen. It took  
12 tremendous effort to catalyze it and to carry it through,  
13 outdoors. And Peter Buck, where are you in the audience?  
14 There you are. I -- Peter's worked incredibly hard over  
15 the last several weeks to make the communiqué happen. We  
16 had an agreement in substance on the day of, but actually  
17 nailing down the words can be difficult. I'm honored to  
18 report that I see the tufts of hair. And I go, well,  
19 things are going well. I still got some hair left.

20 While public safety is paramount, we're also  
21 recognizing this roundtable, that we're committed to  
22 science-based management, and we will work -- move forward  
23 with cooperation and trust. The federal, state, and local  
24 levels of engineers, hydrologists, and scientists -- I  
25 think this is going to be a remarkable and successful

1 process. I'm confident we can achieve our goals of public  
2 safety while protecting and enhancing the environment we  
3 all hold so dear.

4 SAFCA has its roots in this community, the most  
5 at-risk city in the United States with regard to flood  
6 protection. Also the City of Trees. So we are deeply  
7 committed to the success of this project and look forward  
8 to working with all the partners as we go forward.

9 Thank you very much.

10 PRESIDENT CARTER: Thank you, Mr. Buer.

11 GENERAL MANAGER PUNIA: Do you want to leave this  
12 news media?

13 MR. BUER: Yes. I have copies, which we'll  
14 just -- I know you have a copy already. We'll -- for  
15 anyone in the public that would like to have copies, here  
16 they are.

17 GENERAL MANAGER PUNIA: Thank you, Stein.

18 I just wanted to make one clarification. Staff  
19 counsel reminded me that in this roundtable, the whole  
20 Board was not a participant. Only the Board members  
21 President Ben Carter and Rose Marie. So the actions taken  
22 were not from the full Board, only by the two members.

23 With this, Ben and Rose Marie, would you like to  
24 say a few words?

25 PRESIDENT CARTER: Rose?

1           MEMBER BURROUGHS: Thank you all for your kind  
2 remarks. As Jay mentioned, the vegetation symposium and  
3 the conference were really the key, the key to actually  
4 starting the whole roundtable. And I really want to  
5 applaud and thank SAFCA, especially Stein and Peter, for  
6 their hard work in putting together the symposium.

7           It was at the symposium that Lady Bug and I had a  
8 chance to first think about this idea with General Van  
9 Antwerp. And with his positive support, and as Jay  
10 mentioned, his statement was, "If you have the right  
11 people, at the right time, at the right place, great  
12 things can be accomplished."

13           And I had several personal e-mails with the  
14 general. And I just said, well, the stars line up. Well,  
15 the week before the symposium, the couple days, we had a  
16 blue moon with an eclipse. And I think definitely the  
17 stars did line up for us.

18           Again, I would like to thank Lorraine and Jay for  
19 all their hard work in getting the roundtable set up; and  
20 Lady Bug, for your support as we started this roundtable.

21           My highest compliments to all the agencies. I  
22 just got a personal note from the general this week. And  
23 he ended it with, "Together, we will get there." And I --  
24 I'm very hopeful that -- not only hopeful, but confident,  
25 that we will get there.

1           Thank you.

2           PRESIDENT CARTER:   Thank you, Rose Marie.

3           I also want to thank you all for your kind  
4   comments.   I do not deserve the credit that you all give  
5   me.   The heavy lifting was done by all of the agencies and  
6   in particular by Rose Marie and Peter, I think, in terms  
7   of really pulling this all together.   And Peter Buck from  
8   SAFCA.

9           We made a lot of progress in this roundtable  
10   discussion, a lot of very, very positive progress.  
11   There's still a lot of work to do, moving forward.

12           Our role, "our" being the Rec Board's role and  
13   Rose Marie and my role has really been to try and  
14   facilitate, to try and bring the parties together to --  
15   the regulatory parties together, to come to some agreement  
16   and some compromise in terms of the levee vegetation.   And  
17   we have been successful in launching that process.

18           We are the Reclamation Board and Rose Marie and I  
19   are committed to supporting our partners, both in terms of  
20   our public safety and flood control partners in DWR and  
21   the Corps, and the local reclamation districts and local  
22   flood protection agencies, such as SAFCA, as well as our  
23   partners with resources agencies.   And so we will continue  
24   to work hard to reach some compromise that everyone can  
25   live with, that provides appropriate levels of public

1 safety for flood control as well as preserving the natural  
2 resources that we have.

3 I want to thank all of the agencies that were  
4 participants and devoted time to this, and also for coming  
5 here today and saying a few words in support of the  
6 process. I look forward to working with you all in the  
7 very near future and look forward to great results.

8 Thank you all very much.

9 MEMBER BURROUGHS: Mr. President, I did have one  
10 more comment that I wanted to thank Meegan from the Army  
11 Corps of Engineers, because she did a lot of work before  
12 the roundtable in our report on the -- on our common  
13 ground.

14 Thank you.

15 GENERAL MANAGER PUNIA: Thank you, all. I will  
16 continue my General Manager's Report at a later time.

17 Thank you.

18 PRESIDENT CARTER: Thank you very much.

19 Does the -- do any members of the public have any  
20 comments with regard to this item?

21 Any other Board members have any comments?

22 VICE PRESIDENT HODGKINS: I have a couple  
23 questions.

24 As I understood Jay's presentation, there's an  
25 understanding now that reclamation districts who have

1 already received or may receive inspection notices of --  
2 say they have deficiencies due to vegetation, don't have  
3 to get out their chainsaws. And I want to be sure  
4 somebody is officially transmitting that information to  
5 those reclamation districts.

6 Is that happening? That's -- I guess would be  
7 guidance out of the Corps with the inspection?

8 PRESIDENT CARTER: Meegan, do you want to address  
9 this?

10 MS. NAGY: Yes, each of the --

11 THE REPORTER: State your name, please.

12 MS. NAGY: My name is Meegan Nagy from the Army  
13 Corps of Engineers.

14 Each of the agencies that were issued the  
15 deficiency notice, we will send them a letter with the  
16 communiqué attached to it, that notifies them of what they  
17 are expected to do. And, of course, for the 28 that were  
18 Reclamation Board, the letter will go to Jay. And then we  
19 will look to you to provide the leadership to get that out  
20 to the local reclamation districts.

21 VICE PRESIDENT HODGKINS: Meegan, a question about  
22 the long-term plan. I realize you are just beginning to  
23 put that together. But we heard in the recent conferences  
24 about the importance of the remnant of riparian vegetation  
25 that currently exists along the river.

1           And I'm curious, are you thinking that in  
2   developing that plan, there might be an effort included to  
3   figure out how, in the long term, the state incorporates  
4   this into a new plan of flood control, long-term  
5   maintenance, and perhaps restoration, on some of the  
6   riparian forest? Because that's a key component and  
7   problem to address from a mitigation standpoint under  
8   Endangered Species Act, Section 7, Section 9.

9           Is that kind of what you are thinking, Mr.  
10   Gutierrez?

11           MR. GUTIERREZ: Dave Gutierrez again.

12           I believe that we do need to take a systematic  
13   approach. And I think it's a little early to answer that  
14   question completely in the sense that what we want to do  
15   is take a phased approach. The upstream side of the levee  
16   and the vegetation, near the water level, needs to be  
17   studied, evaluated. And in fact concludes that how does  
18   that affect safety? So I think we want to first address  
19   that issue, to be fair, to complete the plan  
20   appropriately.

21           Once that issue is addressed then I think you are  
22   right, then what we need to do is take a further,  
23   long-term plan of how we'll deal with this in the future.

24           And we've had some discussions with some of the  
25   agencies. I also discussed some of these same points with



1 the Corps so far. And to answer your question, sure, this  
2 should be evaluated and this should be part of the plan,  
3 whatever comes out of that.

4 So it's a little bit early to tell you how that's  
5 going to be, but it will be evaluated and then  
6 appropriately dealt with in the plan itself.

7 VICE PRESIDENT HODGKINS: Thank you. I think this  
8 is an incredible accomplishment in a short period. And  
9 you all have my admiration and appreciation for digging  
10 in.

11 But sort of the last piece of this -- and I don't  
12 know if this exists out there. But there might be  
13 situations where a vegetation deficiency is triggering  
14 FEMA's decertification of the levee. Does anybody know if  
15 FEMA is buying into this idea or not?

16 MR. PINEDA: Good morning, President Carter and  
17 Board Member Hodgkins. My name is Ricardo Pineda for the  
18 record. I can get that right. And I am the NFIB  
19 coordinator for the Department of Water Resources and the  
20 State.

21 Your question, Butch, is FEMA buying into the  
22 process? I think there is a nexus between what FEMA is  
23 doing and what the Corps is doing. So if your levee reach  
24 gets on a Corps of Engineers maintenance deficiency list  
25 and it's a levee that is currently recognized on a FEMA

1 national flood insurance program, flood insurance rate  
2 map, you potentially will lose your accreditation by FEMA.  
3 So bottom line, kind of summarized a little more  
4 succinctly, if the Corps puts your levee reach on a Corps  
5 maintenance deficiency list for a federal levee, and that  
6 levee is shown as providing hundred-year protection on a  
7 firm, then, yes, you can, as FEMA works through the  
8 process, lose certification.

9 So it's really communications between the Corps  
10 and FEMA. So the thing is not to get that levee on  
11 that -- on the Corps' maintenance deficiency list.

12 PRESIDENT CARTER: Thank you. Any other questions  
13 from the Board?

14 SECRETARY DOHERTY: Not a question, but I would  
15 just like to comment that I think this was a wonderful  
16 opportunity for cooperation and collaboration between all  
17 of these units. And I think that Rose Marie recognized  
18 this and the importance of it. And I think thanks go to  
19 both of you, and it is exciting to see that this is taking  
20 place.

21 Thank you.

22 PRESIDENT CARTER: Thank you. Very good. Well,  
23 thank you very much. We will move on with the rest of our  
24 agenda.

25 Again, thank you, all, for coming to say a few

1 words.

2 MEMBER BURROUGHS: President Carter, before  
3 everyone leaves, would it be possible to get a picture?

4 PRESIDENT CARTER: We really need to move on.

5 Okay. At this time, we'll move on to Item 5,  
6 public comments. I have one card here. Mr. Heringer?

7 At this time, we invite all members of the public  
8 to address the Board on unagendized items for the day.

9 We do ask that you please fill out a card so that  
10 we know to recognize you. These 3-by-5 cards are  
11 available on the table at the entrance to the auditorium,  
12 and also here in the front from Ms. Pendlebury. So please  
13 pick those up and pass those up to us so we know to  
14 recognize you.

15 Mr. Heringer, good morning.

16 MR. HERINGER: Good morning, President Ben and  
17 Members of the Board of Reclamation.

18 My name is Les Heringer. I manage the M&T Ranch,  
19 just southwest of Chico. I was here in July and August  
20 also discussing a serious issue we have up there with a  
21 levee at river mile 192 and a half. As I said, it's just  
22 southwest of Chico. It's a levee that protects the flow  
23 splits into the Butte Basin overflow area.

24 I've recently written a letter to Colonel Chapman.  
25 And I have provided copies of that for you here today,

1 along with some additional information. Some of this,  
2 I've been providing you with a lot of information, and  
3 this hopefully will be the last of it.

4 And if I may, just take me a minute here to read  
5 this letter, if that is okay. This is addressed to  
6 Colonel Chapman:

7 "I am seeking your assistance in resolving this  
8 issue. In 1964, the State Reclamation Board required the  
9 M&T Ranch and others in the Butte Basin reach to degrade  
10 levees consistent with the Reclamation Board's 1964 Master  
11 Plan for Flood Control in Butte Basin. These levees were  
12 systemically degraded to allow for the controlled flow of  
13 flood waters into the Butte Basin.

14 "In 1983, the Corps protected a levee at river  
15 mile 193 and turned over continued maintenance of it to  
16 DWR. This was done to continue to protect the flood flow  
17 splits into the Butte Basin.

18 "DWR stated during the 1980s and '90s that this  
19 area was very important to the state, and DWR would  
20 protect it, when necessary, to continue to regulate the  
21 flood flow splits as called for by the Reclamation Board's  
22 1964 Master Plan for Flood Control in Butte Basin.

23 "On July 1, 1997, Colonel Dorothy Klasse, district  
24 engineer, Corps of Engineers said in a letter to  
25 Congressman Herger, 'The governor's Flood Emergency Action

1 Team report of May 10th, 1997, recognizes that the M&T  
2 flood relief structure is not a federal project feature.  
3 The FEAT recommends that the Corps formally recognize the  
4 importance of the Butte Basin overflow area by adopting  
5 the overflow and bank protection features into the  
6 Sacramento River Flood Control Project, extending the  
7 project limits north of Chico Landing to match the limits  
8 of the Sacramento River Bank Protection Project, and  
9 approving a plan of flood control for the Butte Basin  
10 overflow area reach of the river.'

11 "In another Corps report prepared by Water  
12 Engineering and Technology in 1989 said -- and this was  
13 prepared for the Corps of Engineers -- 'The Phelan levee  
14 is a component of the flood control measures which  
15 maintain the proper flow splits between the Sacramento  
16 River Flood Control Project levees and the overflow areas  
17 to the east of the river,' which is the Butte Basin  
18 overflow area. 'If the Phelan levee is lost due to  
19 continued erosion, an excessive amount of flow could  
20 overflow Angel Slough. This flooding would be disastrous  
21 for the Butte Basin and could endanger the integrity of  
22 the Sacramento River Flood Control Project levees.'

23 "These communications, the Corps' improvements,  
24 and the Reclamation Board's Master Plan reflect a  
25 consistent view of the importance of the Phelan Levee and

1 controlled releases into Butte Basin, to the state and to  
2 the Corps.

3 "Dramatically, between May of 2006 and March of  
4 this year," which we all know is a critically dry winter,  
5 "the Sacramento River at this location, river mile 192.5  
6 eroded 74 feet towards the Phelan Levee. There is now  
7 only 124 feet of bank remaining between the toe of the  
8 levee and the Sacramento River. This dangerous erosion  
9 needs to be stopped, and the levee needs to be protected.  
10 It needs to be protected now, as requested in writing by  
11 both Butte and Glenn Counties," because this Butte Basin  
12 overflow area is part of both of these counties. "This  
13 will protect public safety, state and county highways,  
14 infrastructure, and commerce. Promises and commitments  
15 have been made to M&T and to the counties in the Butte  
16 Basin since 1964.

17 "Unfortunately, the Corps and DWR are now citing a  
18 1996 report as justification for not taking any action.  
19 In 1996, the Corps and Ayers and Associates commenced a  
20 report entitled 'Sacramento River Bank Protection Project,  
21 Sacramento River and Tributaries Hydrodynamic Modeling of  
22 the Sacramento River and Butte Basin from River Mile 174  
23 to River Mile 194.'.

24 "On August 28, 1996, there was an informational  
25 meeting, held in Willows, presided over by the Corps, DWR,

1 and Ayers. This public meeting was held to provide an  
2 overview of the hydrodynamic study by the U.S. Army Corps  
3 of Engineers. The Corps requested questions in writing to  
4 be addressed to Mr. Tore Pearson and Mr. Bud Pahl.

5 "Questions were submitted in writing and were  
6 never answered. This report apparently concluded that the  
7 flooding basin would be self-balancing no matter how much  
8 levee damage and flood flows there were upstream of and  
9 leading to the Butte Basin overflow area. This conclusion  
10 is now being cited as the basis for the Corps and the  
11 state to not get involved in fixing this current erosion  
12 problem."

13 This summer, wanting to better understand the  
14 study that was done, I requested the Corps of Engineers,  
15 through the Freedom of Information Act, to provide me with  
16 a copy of that report.

17 "On September 7th, the Corps wrote a letter back  
18 to me, saying, 'This report was never finalized, and the  
19 law protects pre-decisional draft report documents from  
20 release.'"

21 So we're not even able to get a report from the  
22 Corps that says that these levees can fail and water can  
23 enter the Butte Basin at a different point and  
24 everything's going to be okay.

25 That's really all I have to say. Thank you very

1 much for your continued attention to this very serious  
2 matter.

3 PRESIDENT CARTER: Thank you, Mr. Heringer.

4 I believe if you have time to stay, I think DWR  
5 and Mr. Mayer are going to be addressing portions of this  
6 issue in their report under Item 6.

7 Thank you.

8 I do not have any other cards for public comment  
9 on unagendized items. There's nobody in the public that  
10 wishes to address the Board on unagendized items?

11 Very good.

12 Then we'll move on to Item 6, Report of the  
13 Activities of Department of Water Resources.

14 I believe Mr. Punia has indicated that Mr. Kasey  
15 Schimke, who is assistant director for Legislative Affairs  
16 for DWR was going to start the DWR report. And Mr. Mayer  
17 was going to follow.

18 So with that, I would like to welcome Mr. Schimke.

19 MR. SCHIMKE: Good morning, Mr. President. I'm  
20 Kasey Schimke, the assistant director for Legislative  
21 Affairs for the Department of Water Resources.

22 And first of all, thank you for letting me come  
23 and introduce myself to you. I know Jay has been  
24 attempting for some months to make this happen. And I  
25 apologize for not being able to get here sooner. I was



1 appointed to this position in May of this year. We're in  
2 the middle of budget discussions and legislative hearings.  
3 So I appreciate the Board's patience and having this  
4 little introduction and meeting.

5           What's being handed out is just a brief list that  
6 we've put together, and have posted on the Department's  
7 Web site, of current flood-related legislation that the  
8 legislative session, just having ended, is still pending  
9 before the governor. The first two pages include a list  
10 of bills that've passed on to the governor. Just a short  
11 summary, that I would like a few minutes to go over, if  
12 you have time for that.

13           And then the final two pages list other  
14 legislation that has not passed, did not make it to the  
15 governor's desk this legislative year. But it's included  
16 in there also for your review. If you should have any  
17 questions, either now at a later time, I would be more  
18 than happy to sit down and discuss the legislation with  
19 you.

20           Basically, what I wanted to kind of give a quick  
21 overview of, in this year, in mid-May, at the direction of  
22 the Schwarzenegger administration, the Department of Water  
23 Resources proposed a legislative proposal dealing -- for  
24 legislation, dealing with flood management, flood  
25 protection. That proposal involved local land use

1 planning activities; it involved state responsibility  
2 issues detailing with state plan of flood control, mapping  
3 requirements. It was a very comprehensive package of  
4 legislation. And as a result of that proposal by the  
5 administration, the legislature -- we had a number of  
6 different discussions back and forth on the proposal. We  
7 dealt with local governments. We dealt with the  
8 development community. And what came of those  
9 discussions, as well as some of the proposals that were  
10 already in existence in the legislature, was a package of  
11 bills that are now before the governor, that were sent by  
12 members of the legislature.

13           Key to these would be Senator's Michado's SB 5;  
14 Assembly Member Wolk's AB 162; Senator Flores has SB 17;  
15 and then Assembly Member Wolk also has AB 5, which all  
16 sausage making aside, it simply makes some additional  
17 changes to those other three. I won't go into the details  
18 of specifically what. But I want to give you a quick  
19 little overview of that.

20           Primarily what is now -- what has now been  
21 proposed involves the state preparing a Central Valley  
22 Flood Protection Plan that would, by 2012, identify  
23 features of both the facilities of the State Plan of Flood  
24 Control as well as other facilities outside of that plan,  
25 within the Central Valley. It would identify major

1 features, and it would make recommendations about future  
2 actions.

3           It would then require local governments to amend  
4 the general plans and their zoning ordinances, utilizing  
5 this new information. And subsequent to that, so we are  
6 now looking at about 2015, would prohibit local  
7 governments from approving development in deep  
8 floodplains, in flood hazard areas, unless specific  
9 criteria were met -- the property is protected to an urban  
10 level of protection, flood protection; if there is a local  
11 plan to achieve an urban level of flood protection; and  
12 sufficient progress is being made towards achieving that  
13 plan. And that is primarily the basis of SB 5.

14           AB 162, by Assembly Member Wolk would then require  
15 local governments and their land use and conservation  
16 element of their general plans to identify areas that  
17 are -- that would be subject to flooding, and to identify  
18 areas that could hold flood waters in specific areas,  
19 including, I think they identify, rivers, streams, lakes,  
20 low areas that could handle flood waters in such an event,  
21 all to kind of help direct land use decisions by those  
22 local governments.

23           And the other key piece of that package that has  
24 been proposed is SB 17, as modified by AB 5, which affects  
25 this Board directly. It would recast the Board as the

1 Central Valley Flood Protection Board and establish it  
2 independently from the Department of Water Resources for  
3 the purposes of -- I believe the intent of the legislature  
4 was to make an independent body and professionalize the  
5 Board.

6 It includes, you know, making it on par with, I  
7 believe, the Air Resources Board salary equivalence, and  
8 does a number of things similar to the restrictions and  
9 requirements of some of the regulatory boards of Cal/EPA  
10 with regards to ex parte communication as well as  
11 evidentiary hearings and a number of other components of  
12 that, which I don't want to necessarily go into great  
13 detail with that. But that is one of the pieces of the  
14 sum total of the legislative proposals that are now before  
15 the administration, as proposed by the legislature.

16 This year has been obviously quite -- well, it's  
17 been probably the second consecutive year where there's  
18 been significant efforts to address the issue of flood  
19 protection and what is now -- what has now been proposed  
20 is kind of the -- well, I'm trying to think of the  
21 appropriate term. It's a balance of planning by local  
22 governments, activities by the state, and then also moving  
23 forward, future activities of the Department as well as  
24 the Rec Board.

25 I would be more than happy to, you know, further

1 discuss legislation. I really don't want to take up a  
2 whole lot of time here. I do appreciate the opportunity  
3 to step in front of Rod and go with a few of these  
4 discussions. But I want to make sure we had this  
5 information to you, obviously to introduce myself to you,  
6 and let you know that my office is available for questions  
7 or follow-up discussions as they may -- as they may arise.

8 SECRETARY DOHERTY: Do you have a card?

9 MR. SCHIMKE: You know what? I came so prepared,  
10 I left my cards upstairs. But I will definitely make sure  
11 that Jay has those phone numbers.

12 PRESIDENT CARTER: Very good. Are there any  
13 questions for Mr. Schimke?

14 VICE PRESIDENT HODGKINS: It's quite a package of  
15 bills. Can you refresh my high school civics about the  
16 governor's signature, and what the time is with respect to  
17 those? And if you can, which I'm not sure you can, do we  
18 know if the administration is supportive of these  
19 proposals or not?

20 MR. SCHIMKE: The timeline is the governor -- once  
21 the bill is before the governor, he has 30 days to sign or  
22 veto the measures. I believe the deadline is now looking  
23 at somewhere around October 14th. It really depends on  
24 what specific day the bills came before the governor.

25 With regard to this proposal, obviously there are

1 pieces of it that are similar to what the Department had  
2 proposed at the direction of the administration. There  
3 are significant differences in other areas. So at this  
4 point, I can't really say what the official position of  
5 the administration is on the package as a whole. That is  
6 something I think we will definitely find out sometime  
7 here before the middle of October. But that is the  
8 timeline as we move through this, here.

9 And I believe I read in the paper, there were  
10 900-plus bills that passed the legislature in the final --  
11 final days and weeks of session. So there's quite a bit  
12 of organizing taking place right now.

13 VICE PRESIDENT HODGKINS: And if it's not signed  
14 or vetoed, in effect, it's vetoed; is that correct?

15 MR. SCHIMKE: No. Actually if he does not sign --  
16 if the bill is in possession after that date, it would  
17 become law.

18 VICE PRESIDENT HODGKINS: Oh, okay.

19 MR. SCHIMKE: So he does have to take an  
20 affirmative action.

21 PRESIDENT CARTER: Mr. Schimke, as Vice President  
22 Hodgkins said, it's quite a package of bills. Is there --  
23 and they all seem to be contingent on each other in terms  
24 of connectivity. Any one of the four bills that you  
25 mentioned is key. Can they be passed and go into law or

1 do all -- does the entire package have to be passed?

2 MR. SCHIMKE: SB 5, SB 17, and AB 162 contain  
3 what's called contingent enactment language. It says, in  
4 order for any one to become law, all three have to become  
5 law. That is how they have been drafted by the  
6 legislature, in essence, to ensure that they are a  
7 package, as a unit.

8 PRESIDENT CARTER: So then SB 5 is separate,  
9 related but separate. But the other three have to pass?

10 MR. SCHIMKE: No, I'm sorry. SB 5, AB 162, and SB  
11 17 are connected. However, AB 5 makes changes to those  
12 other three. So in effect -- if AB 5 -- there are  
13 necessary changes being made by AB 5 to make the  
14 package -- to make changes to the package to what is  
15 believed to be more workable. And so it too -- while not  
16 contingently enacted -- enactment is not contingent upon  
17 any other bill, in essence, AB 5 would also need to make  
18 changes to the package, as it is proposed in the other  
19 three.

20 PRESIDENT CARTER: Okay. Thank you.

21 Mr. Hodgkins?

22 VICE PRESIDENT HODGKINS: Just a question of  
23 convenience. You know, do you have or do you know of  
24 anybody who has the Water Code red line and strike out  
25 version to account for all four of those?

1           MR. SCHIMKE: Not all in one item. They do -- we  
2 do -- the three -- the three bills are not in conflict  
3 with one another. So really, what we would need is we  
4 would need the AB strike out, red line, as you put it, to  
5 the Water Code as it is, and the Government Code as is  
6 being amended by the other three.

7           They are not in conflict, one with the other.  
8 They are just simply tied together, so they wouldn't be  
9 supplanting one another except obviously for those  
10 provisions of AB 5.

11          PRESIDENT CARTER: Very good. Thank you very  
12 much.

13          MR. SCHIMKE: Thank you much for your time.

14          PRESIDENT CARTER: Thank you for coming. Nice to  
15 meet you.

16          Mr. Mayer?

17          MR. MAYER: For the record, Rod Mayer. I'm here  
18 to report on DWR's activities. And before doing that, I  
19 would also like to say hello to Emma. It's great to see  
20 you back on the Board.

21          On water conditions, there's not much to report,  
22 so I don't think I have to say much on that. Things  
23 continue to be dry.

24          I will note, however, that there is a significant  
25 storm moving into California, in southern and central



1 California, that has prompted our flood operation center,  
2 yesterday, to issue a flood alert for the Zaca fire burn  
3 area. Approximately 240,000 acres, Santa Barbara County.  
4 And there is rainfall forecast, at least as of yesterday,  
5 to be in the range of 1 to 3 inches. That gives us  
6 concern because of projected significant erosion  
7 potentials for much of the burn area where there was very  
8 intense heat.

9 So Department of Water Resources has issued this  
10 internal flood alert to improve our readiness to respond  
11 if this does develop. We've also been closely  
12 coordinating with the local agencies, especially Santa  
13 Barbara County, state and federal agencies. We have  
14 forwarded a technical assistance request from Santa  
15 Barbara County to the Corps of Engineers, L.A. District.  
16 And district has responded and has folks out in the field  
17 right now doing the assessment. And there had been an  
18 earlier assessment brought before us as well. So we're  
19 working closely with these agencies to deal with the  
20 issue. And we'll be looking closely throughout today and  
21 the weekend at how the watershed responds to this event.

22 On Delta Emergency Response, I would like to  
23 mention or remind the Board that on July 17th, Governor  
24 Schwarzenegger issued a directive to deal with a number of  
25 urgent delta needs, one of them being the need for

1 improved readiness and preparations for a large delta  
2 flood emergency, such as might be posed by an earthquake  
3 that causes damage to numerous levees in the delta; and  
4 directed DWR to plan on spending approximately \$74 million  
5 in improved revenues for a delta emergency.

6 The two primary activities of the Department of  
7 Water Resources have been to develop an improved emergency  
8 operations plan for the delta. There have been plans  
9 around, over the years. However, there's plenty of room  
10 for improvement.

11 And since January, we've been working on  
12 developing an improved plan. And we have completed an  
13 interim emergency operations plan. The next step in the  
14 process, though, will be to go public and work with local  
15 agencies, much closer in public settings, to develop a  
16 more robust and final emergency operations plan. And that  
17 will take some time to accomplish.

18 In addition, we are developing plans for fieldwork  
19 or field preparations. Largely, it would be focused on  
20 stockpiles of rock, but it can also include other flood  
21 fight materials. We intend to begin these -- the  
22 stockpiling effort early in 2008.

23 We have narrowed down the list of sites where we  
24 propose to do these initial stockpiles to put area -- Port  
25 of Stockton, and Rio Vista. It's possible that we will

1    need an encroachment permit from the Board for some of the  
2    stockpiling, particularly including where it looks like we  
3    made need to stockpile against a very wide levee at the  
4    location.

5           SECRETARY DOHERTY:   May I ask you a question,  
6    please?

7           If you are not going to do this until '08, and  
8    December is supposed to be a very rainy month, why  
9    wouldn't you start the stockpiling now?

10          MR. MAYER:   We're negotiating leases that we need  
11    to acquire the land.  It's an intense activity by our real  
12    estate agents.  And then we're also developing contracts  
13    and procurement contracts for the rock and delivery.  So  
14    there's a lot of logistics involved.  So we're doing it as  
15    fast as we can.  But realistically, it does take several  
16    months to do all that, in order to actually begin placing  
17    rock and starting stockpiling.

18          SECRETARY DOHERTY:   You also say that you are  
19    going to have public outreach meetings scheduled for late  
20    September and early October.  Are those scheduled yet?

21          MR. MAYER:   I haven't seen the schedules, so I  
22    don't know.  But I would be glad to get back to you on  
23    what the schedule is, if you would like.

24          SECRETARY DOHERTY:   Thank you.

25          MR. MAYER:   The budget.  This is my budgeted item,

1 essentially. It was not in the governor's budget or even  
2 in the May revised budget. However, we do have the  
3 ability to access Proposition 84, continuously  
4 appropriated funds. And that is our plan for funding most  
5 of this effort. And we've recently prepared a notice to  
6 the legislature, telling them that we intend to access of  
7 some of our Prop 84 funds. And in addition, due to the  
8 lower costs that we experienced on the Tisdale Bypass,  
9 which I will be touching on shortly, we believe that we  
10 have more than sufficient funding in this current year's  
11 budget for sediment removal.

12 In total, we had budgeted \$30 million for sediment  
13 removal projects, and that was based upon prior unit costs  
14 that we had experienced. Unit costs have dropped. The  
15 market goes up and down in terms of construction costs.  
16 And as a result, we think we can free up about \$10 million  
17 out of that \$30 million and redirect it towards this delta  
18 emergency preparation effort. So \$10 million will be used  
19 for, mostly, the stockpiling effort. And \$2 million out  
20 of Prop 84 will be used mostly for the planning effort for  
21 a total budget and effort for this current year of about  
22 \$12 million.

23 I would also like to -- and I will touch on  
24 Tisdale bypass. On August 16th, sediment removal  
25 activities actually began, in earnest, in the field. And

1 we've had a very good rate of production. We are now at  
2 about 40 percent of the sediment having been removed; so  
3 about 60 percent to go, out of a total of 2 million yards,  
4 estimated.

5 So we're well on schedule. And it looks like  
6 we'll be able to beat the November 15th deadline for  
7 completion of the work. And we're all very pleased with  
8 the way the work is progressing.

9 I would also like to talk next about our flood  
10 protection corridor program. This is essentially a  
11 nonstructural program where areas subject to flooding  
12 throughout the state may receive grant funding through the  
13 program to implement nonstructural-type projects. This  
14 program was first created in the year 2000 as a result of  
15 \$70 million being provided through Proposition 13. And  
16 it's been a very successful and well received program.  
17 All that \$70 million has been spent or encumbered on  
18 projects.

19 Now Proposition 84 has infused new funding into  
20 the program. It gave us an opportunity to actually build  
21 upon the regulations that were already in place for the  
22 program, to revise them slightly and to write new  
23 guidelines, which we have done. We've circulated those  
24 draft guidelines, received public comment, and finalized  
25 those guidelines. And we have now gone out with grant

1 solicitations.

2           The grant solicitations, we're giving the folks a  
3 couple of months to prepare their packages, and we expect  
4 the packages in by November 2nd. This year's budget is  
5 \$25 million for the program of which we think about  
6 \$24 million would be available for grants and the rest of  
7 it's for state, administrative, purposes.

8           And then that will leave about \$15 million for  
9 another round, next year, of grants. We thought it would  
10 be best to break it up and not have one large grant at one  
11 time. There might be some good projects out there that  
12 are not ready to go, but given some time, they could be  
13 ready next year. And we were so quick in turning this  
14 around, once we had the funds, that we thought we  
15 shouldn't get ahead with some potentially good projects,  
16 so it's broken into two grant rounds.

17           I would also like to talk about our early  
18 implementation projects. This is for the state federal  
19 flood control system modifications. This program has been  
20 budgeted \$200 million in Prop 1E and Prop 84 funds  
21 specifically 170 Prop 1E, 30 million Prop 84.

22           As you well know, we went through a process of  
23 reviewing seven applications for these grant contacts.  
24 And four of them have passed the initial eligibility  
25 screening; three have not. The state costs, if all of

1 these projects move forward through construction, it would  
2 be estimated that 211 million -- so, you know, that's  
3 little bit more than what we had budgeted. As a result,  
4 we need to go back and dig into our continuously  
5 appropriated Prop 84 funds to complete this, if all four  
6 of them proceed. And we have notified the legislature  
7 recently that that is what we intend to do, if  
8 appropriate.

9         The four projects that are proceeding are in levee  
10 district one, a setback levee, Star Bend. We estimate the  
11 state cost share would be 16.33 million. In reclamation  
12 district 2103 on the north -- north side of the Bear  
13 River, there's a proposed fix in place of the levee that  
14 will protect the area of Wheatland. And that is estimated  
15 to cost 7.35 million for the state cost share. SAFCA has  
16 a large project for improvements of levees protecting  
17 Natomas, and the state cost share for the work that would  
18 be approved, potentially, under these program, is  
19 \$49 million, focused on improvements to the Natomas Cross  
20 Canal South Levee. And the largest of the projects, of  
21 course, would be the Three Rivers project major setback  
22 levee, in what's called Reach 2, as well as upstream of  
23 that, in Reach 3 or Segment 3, a fix-in-place. The total  
24 state cost share would be \$138.5 million for that project.

25         Three projects did not proceed through the initial

1 screening were the Lake County, Middle Creek, also the  
2 Reclamation District 2035, which is the Woodland area, and  
3 Sacramento County Howe Avenue pump station.

4 Those unsuccessful applicants were informed of the  
5 reasons that they did not pass and directed to other  
6 potential funding sources.

7 The four successful applicants have been now asked  
8 to provide their financial plans and any other information  
9 that may be necessary to complete their applications. And  
10 we expect their financial plans to be provided in early  
11 October. We will then be reviewing their financial plans  
12 to make sure that they have the financial capability to  
13 carry out their part of the project and to perform the  
14 construction.

15 MEMBER BURROUGHS: Mr. Mayer, excuse me. I have  
16 question on that one part.

17 You mentioned that the applicants that did not  
18 pass the review received letters as to why. Can you --  
19 without naming anything, can you just give me an example  
20 of what kinds of things would make a project not pass the  
21 review?

22 MR. MAYER: I can be general. I can be specific,  
23 if you like.

24 MEMBER BURROUGHS: General is fine.

25 MR. MAYER: Okay. Some of them had a problem with



1 a cost-benefit ratio. We were unable to demonstrate that  
2 the project was actually economically feasible.

3 Another problem that occurred is the project  
4 really wasn't a good fit for this program. This program  
5 is for projects ready to go to construction and are needed  
6 to do final design and then move into construction. And  
7 the projects that are in the feasibility phase or even  
8 prefeasibility, which there was one instance of that,  
9 really are not appropriate for this program to fund.  
10 However, there is 10 million in the budget for funding  
11 feasibility studies. So that project was redirected to  
12 that funding source.

13 MEMBER BURROUGHS: Okay. Thank you.

14 I still have a problem with the cost feasibility  
15 study, because I -- I believe that the whole system needs  
16 to be evaluated rather than just what the cost benefit  
17 would be, just to that local area.

18 And that's a different subject.

19 Thank you.

20 MR. MAYER: Okay. I would also like to talk next  
21 about our levee evaluation program, just provide a brief  
22 update on the urban levee evaluations.

23 Drilling stopped in late July for a while on the  
24 areas that drilling has been proceeding in a number of  
25 urban areas, with one exception of Sutter County, who did

1 keep one drilling. And that was due to delays and passage  
2 of the budget and running out of the funding source, which  
3 was AB 142 funds. Since the budget's passed, we've been  
4 working with, through the URS, our contractor, to get the  
5 drill rigs back out and moving again. I don't have an  
6 update in terms of exactly what rigs are where at this  
7 point. But that's our highest priority.

8           The drilling really needs to occur at certain  
9 times, and once you get off the levee and especially on  
10 the waterside of the levee, you really can't do that  
11 during the winter. So it's a priority for us to get the  
12 drilling going again.

13           We also began our electromagnetic survey. This is  
14 where the helicopter has, what looks like, a torpedo  
15 hanging from it and flying over the levees and performs  
16 this electromagnetic survey, which gives us geophysical  
17 information between the drill holes. So if it were to  
18 show that things don't look the same between the drill  
19 holes, as what we're seeing in the drill holes, that would  
20 be something that we would want to further evaluate and  
21 perhaps perform more drilling in such areas. So those EM  
22 surveys began on September 6th.

23           Also, we are beginning our rural levees  
24 evaluations with advertisement of two contracts, each for  
25 \$60 million -- one for the Sacramento Valley, one for the

1 San Joaquin Valley. And the RFQs, or requests for  
2 qualifications, for these two contracts were advertised on  
3 September 7th.

4 Moving on to erosion repairs, quick update on the  
5 2005 sites. The original sites, that started at 24 and  
6 moved to 33 sites, all work has been completed on these  
7 sites with the exception of four of the sites where we  
8 still have to do willow plantings, and the willow  
9 plantings will be done next month; it was deferred because  
10 of hot weather.

11 And the 2006 sites, which also happened to have 24  
12 sites, construction and mitigation and planting work is  
13 well underway, with all but two of the sites scheduled for  
14 completion in November. DWR has 10 of these sites, and  
15 the Corps has 14 of those sites. The two DWR sites that  
16 will not be done are the sites on Cache Creek, and we are  
17 continuing to negotiate with landowners for the setback  
18 levees. So it doesn't look like we'll be able to do this  
19 construction this year, and will be deferred until 2008,  
20 as we work through the life of the acquisitions with the  
21 landowners.

22 MEMBER RIE: I've a question.

23 MR. MAYER: Yes.

24 MEMBER RIE: For the urban levee drilling program,  
25 are you guys going to prepare a detailed report for the

1 Board with the findings and conclusions of that report?

2 MR. MAYER: I don't think we had planned on  
3 preparing a specific report for the Board. I can tell  
4 you, there are numerous specific reports at each phase.  
5 In each area, there are phases and reports that are  
6 required.

7 Would that be satisfactory, or would the Board be  
8 looking for some larger and encompassing report.

9 MEMBER RIE: I don't know about the other Board  
10 members, but I would like to have a brief summary of what  
11 levees were in what particular condition, good or bad.  
12 And it doesn't have to be that detailed, just something  
13 very general, so we can have an idea of the state of the  
14 system.

15 MR. MAYER: Okay. I think that's a fair request.  
16 I would be able to accommodate that.

17 MEMBER RIE: Okay.

18 MR. MAYER: Okay. I also wanted to touch on the  
19 Phelan Levee, which we heard Mr. Heringer -- provided a  
20 good history of what's happening out there. And it's also  
21 a good education for me; I didn't know some of these  
22 details.

23 As we said on a prior -- we've contracted with URS  
24 to prepare a report for us. It is due in September. They  
25 have prepared the draft report. DWR is now reviewing that

1 report. And the intent is to finalize it shortly. It  
2 looks like we can finish it and have the final report at  
3 the end of September. So we're on track for that.

4 And I think one of the comments I also heard from  
5 Mr. Heringer also had to do with the Corps basing its  
6 decision and practice on the draft report, which he can't  
7 even get ahold of through a formal request. And that is  
8 kind of awkward. DWR has, I guess, expressed concerns  
9 over the years with respect to that draft report, and that  
10 the practice of the Corps should really be based upon a  
11 final report and further public discussion in addressing  
12 comments that were received on the reports, especially  
13 comments from DWR.

14 And the Corps and the Board and DWR have a long  
15 history of working together in the Butte Basin and  
16 constructing works out there, including flood relief  
17 structures and bank protection. And I think DWR isn't  
18 quite ready to abandon that. And we'll be working with  
19 the Corps to continue their involvement to the extent  
20 possible.

21 So I think what you will see is, this report, that  
22 will come out in the end of September, will answer some of  
23 the key questions about the criticality of this erosion  
24 site, specifically. But it won't deal with some of the  
25 larger questions about overall, what do we do with the

1 Butte Basin and how do we work with the Corps to address  
2 it. And so I think there's a lot of additional work  
3 that's going to need to occur after this report is out.

4 SECRETARY DOHERTY: Mr. Mayer?

5 MR. MAYER: Yes.

6 SECRETARY DOHERTY: You say that the report will  
7 come out the end of September. But in your letter of --  
8 "The Corps concluded that the bank protection in this  
9 reach has minimal impact" -- this is at the M&T -- "on the  
10 functioning of the flow splits between the Sacramento  
11 River and the Butte Basin.

12 This is as though it was a final statement.  
13 Somewhere in here, I think you had a letter that -- I  
14 thought. Well, maybe I am mistaken. But if that's --  
15 yeah, original signed by you. So that was the final  
16 statement then. So will it perhaps change?

17 MR. MAYER: Well, I think that is what the Corps  
18 is saying. What we don't have is anything in writing from  
19 the Corps saying, "Here's our new policy on the Butte  
20 Basin," which is a fundamental change from the way we've  
21 operated for something like 40 years. We would like to  
22 do -- we would like to do that. But we can't force the  
23 Corps to do anything.

24 SECRETARY DOHERTY: Right. I understand that.

25 MR. MAYER: So I think we need to work with them

1 to go through a process to reach a conclusion, and maybe  
2 they've got the right conclusion at the end of the day,  
3 when all the work is done, and all the modeling and  
4 analysis is done.

5 SECRETARY DOHERTY: Uh-huh. After being up there  
6 and seeing it, I should think that if that levee goes  
7 there, there's going to be an awful lot of water that's  
8 going to go down into that Butte Basin and Angel Slough.

9 MR. MAYER: I agree with that. I think one of the  
10 fundamental questions we need to address is, what does it  
11 mean in Water Code 8361, where DWR has responsibility for  
12 maintenance of facilities up there? What does it mean  
13 when it says that DWR is to maintain facilities necessary  
14 for the proper functioning of Butte Basin? What's proper  
15 functioning? Is it okay if more water goes into it or  
16 not?

17 I mean, people could reasonably debate that. I  
18 think we could go back and do a little research and get a  
19 good answer to that question.

20 SECRETARY DOHERTY: So will we get to see a copy  
21 of that when it's concluded?

22 MR. MAYER: The final report?

23 SECRETARY DOHERTY: Yes.

24 MR. MAYER: Oh, absolutely.

25 SECRETARY DOHERTY: Oh, good. All right.

1           I have another question for you, but not about  
2   that area. In July, I -- when Mr. Swanson made his  
3   report, I pointed out that there were trees being planted  
4   in the Sutter Bypass. Was there a permit for that? The  
5   deed states that there was supposed to be no trees, no  
6   tules, no nothing. So did anyone check on that?

7           MR. MAYER: I have no idea. He didn't talk to me  
8   about that. I can follow up and see.

9           SECRETARY DOHERTY: I'd like to know if they have  
10   been removed, or did they have a permit to do that? And  
11   if they had a permit to do that, it seems like it's in  
12   violation of the deeds.

13          MR. MAYER: Okay. Did you get -- is there any  
14   more detail you can provide me in terms of location?

15          SECRETARY DOHERTY: It was right about where they  
16   were drilling. Do you know where they were drilling the  
17   other day?

18          MR. MAYER: No.

19          SECRETARY DOHERTY: Mr. -- I will tell you who it  
20   was, and you can ask him where he was drilling. And right  
21   across from where he was drilling, there's a bridge. And  
22   you go across that bridge and out into those fields, out  
23   there. Mr. Belluomini, he's with the senior engineer and  
24   geologist specialists. And they were drilling over there,  
25   taking core samples, and putting in monitoring wells.



1           It was my understanding that there was to be a  
2   slurry wall put in over there. But he said, no, that's  
3   not -- and in our minutes here, somewhere, today, we're  
4   going to be addressing a situation where the general  
5   manager is going to be asked to approve something. But if  
6   no slurry wall is going to be built, then that might  
7   become a moot point. But I was just curious to know  
8   what's going on over there.

9           MR. MAYER: Okay.

10          SECRETARY DOHERTY: Okay?

11          MR. MAYER: I will follow up. I hadn't heard  
12   about this; Keith hadn't mentioned it to me.

13          SECRETARY DOHERTY: Okay. Thank you.

14          MR. MAYER: Sure.

15          MEMBER RIE: I have a question.

16          MR. MAYER: Sure.

17          MEMBER RIE: Getting back to the levee with the  
18   erosion problem, if it turns out that it's not the  
19   Reclamation Board's responsibility or DWR's responsibility  
20   to maintain that, is there a possibility to get some  
21   Proposition 84 money allocated to this repair?

22          MR. MAYER: I think so. I think there would need  
23   to be a public agency applicant to apply for a competitive  
24   grant. We do have a local levee urban repair grant  
25   program that will have \$40 million allocated to it, when

1   you subtract out the administrative costs a little bit,  
2   less than that; and actually go out to the locals, in  
3   terms of grants, statewide for local levees that need  
4   erosion repairs or other type of erosion repairs.

5           This grant program, we've already gone through the  
6   draft guidelines process and received public comments and  
7   dealing with the public comments, which were significant.  
8   So it's taken some time. We do expect the grant program  
9   to be active, probably, in the next month or so, at the  
10   beginning of the process. So there could be an  
11   application submitted, and if it could compete, that would  
12   be one approach. It would need to be a public agency,  
13   however.

14           MEMBER RIE: Could that public agency be the  
15   Reclamation Board on behalf of this particular section of  
16   the levee?

17           MR. MAYER: No, I do not think so.

18           MEMBER RIE: Could it be a county?

19           MR. MAYER: Yes. It could be a county.

20           MEMBER RIE: Okay. So the county could apply for  
21   this particular grant program?

22           MR. MAYER: Yes.

23           MEMBER RIE: What is it going to be called?

24           MR. MAYER: The Local Levee Urgent Repairs Grant  
25   Program.

1           And from what I heard from the last Board meeting,  
2   which was discussed slightly, and Mr. Heringer was made  
3   aware of it.

4           PRESIDENT CARTER:   Mr. Mayer, with regard to the  
5   Phelan levee, while this report is being generated and  
6   depicted and internalized in deciding what the  
7   implications are, what is DWR's position as far as  
8   protecting the levee through this flood season?   Because  
9   it doesn't sound like DWR is going to be doing anything in  
10  the near future.

11          MR. MAYER:   Well, we're going to put out the  
12  report.   And then I think you will see the appropriate  
13  actions by DWR once the report is out there.   We have no  
14  intention of going out there before the report's finalized  
15  for doing something.   But the report's only a couple of  
16  weeks away.

17          PRESIDENT CARTER:   So the report's a couple weeks  
18  away?

19          All right.

20          MR. MAYER:   Okay.   To wrap up on erosion repairs,  
21  43 out of the 53 PL 84-499 order one and order two sites  
22  have been -- the repairs have been completed; four more of  
23  them are expected to be done by November; and if you have  
24  been tracking the numbers for the PL 84-99, you may recall  
25  that we had 47 sites for the spring through the summer;

1 six sites were recently added due to new benefit-cost  
2 analysis that showed that they were economically  
3 justified. And these sites are RD 150, Merritt Island,  
4 and the North Delta. So now we're up to 53, which makes  
5 the total number of federal sites we're dealing with, 110.  
6 So those six sites, kind of coming around late, where they  
7 are not going to be repaired this year; they will be  
8 repaired next year, by the Corps.

9 And in addition, the Corps has funding to do the  
10 order three through five damaged sites, 62 of them. And  
11 42 of them are scheduled for completion this year. Twenty  
12 of them have some permitting challenges that will cause us  
13 to defer the work to next year.

14 Last thing I wanted to mention is that in August  
15 we completed our annual levee and channel inspection  
16 report. And I have copies that I'm going to distribute to  
17 you. This is for the 2006 year.

18 Are there any questions?

19 VICE PRESIDENT HODGKINS: Rod, can we go back to  
20 the early implementation projects for a minute? You said  
21 there's a financial plan that has to come in. And that's  
22 mid-October, early October?

23 MR. MAYER: Early October is what we've asked.  
24 It's possible that not all of them will be able to meet  
25 that. So we'll have to, I think, exercise some

1 flexibility and judgment about how we proceed from there.

2 VICE PRESIDENT HODGKINS: Okay. Because I think  
3 probably where -- the subcommittee had a meeting with the  
4 Three Rivers Levee Improvement Authority folks to talk  
5 about where they are. And out of that meeting, there were  
6 a couple of questions that came up where there were not  
7 yet definitive answers in terms of how they are going to  
8 work. One of them was, is the program going to be a  
9 program where the local agency has to be able to  
10 accommodate the cash flow and be reimbursed, or will it be  
11 a cash-up-front program?

12 I think the second one, really, was, with an  
13 answer to the first one, when does money actually start to  
14 flow? And that's a project where the Board is going to  
15 focus. Because if we can't get it turned loose, we  
16 potentially run the risk of not getting the setback levee,  
17 the new levee, constructed as the back-up levee, before  
18 the flood season of 2009. We will try to hold them to  
19 that. And so can you help me out at all?

20 MR. MAYER: I can help you out a little bit, but  
21 maybe not as much as you would like.

22 With respect to when money would flow, it  
23 certainly wouldn't be until after we have executed a  
24 contract with each local agency. We have drafted up what  
25 these contracts will look like, but we're not done with --

1 ready to air these contracts and show them to local  
2 agencies and ask if they have any problems with them. But  
3 we're close to that point.

4 And then I think we're probably realistically at  
5 least a month, if not two months, away from being able to  
6 execute these grant contracts that we're talking about.  
7 And we may not even call them grant contracts.

8 With respect to the advancement of funds issue,  
9 the first issue you brought up, normally, our contracts,  
10 our grants at least, gets a reimbursement program. It's  
11 been made really clear to us, in working with some of  
12 these local agencies, especially Three Rivers, that that  
13 really isn't going to work for them because of the  
14 enormous cost of the project and the ability of local  
15 agencies to raise funds. And so they have been quite  
16 insistent that we need to come up with something better.  
17 So we've been working aggressively to develop approaches  
18 that would allow us to advance funds, especially on the  
19 land acquisition side. And they have also asked, how  
20 about on the construction funds? Can you advance funds  
21 there? That's getting very creative to deal with that and  
22 raising a number of legal issues. We think we have an  
23 approach that we can work through, but we need the  
24 Department of General Services to agree with us.

25 We've got to the point where we're ready to

1 discuss it with General Services, and actually we're  
2 meeting today with General Services to discuss this and  
3 lay out our approach and see if they can agree that we're  
4 on the right track and that we can provide some ability to  
5 advance funds.

6 VICE PRESIDENT HODGKINS: If the Board can help in  
7 any way, please let us know. And then I guess the other  
8 question was, you talked about a lot of emergency work in  
9 the delta, need for a permit from the Board. As I recall,  
10 we have delegated to the general manager the authority to  
11 go ahead and execute any permit associated with emergency  
12 work. Is that the case? I'm just trying to be sure that  
13 that's taken care of.

14 GENERAL MANAGER PUNIA: If the DWR declares that  
15 this is a part of the state of emergency, then the  
16 delegation is there.

17 VICE PRESIDENT HODGKINS: Okay. But that is not  
18 the case, or is it?

19 MR. MAYER: I'm not so sure that's the case. We  
20 would have to take a look at that. I didn't think that  
21 this was the type of a permit that would necessarily need  
22 to come before the Board, anyway.

23 So we will --

24 GENERAL MANAGER PUNIA: Yeah, this may be a  
25 general manager's permit. I agree with Rod.

1           VICE PRESIDENT HODGKINS: Because I, for one, at  
2   least, would encourage staff and DWR to think about  
3   whether there are other cases you need that delegation  
4   made. And if there are, make that kind of a presentation  
5   to the Board.

6           I would hate to see them have to wait a month to  
7   get something on a Board agenda that's associated with  
8   planning for the coming winter or emergency response for  
9   the coming winter. And so I, at least, would encourage  
10   you to think about whether you need any other delegation.

11          MR. MAYER: Okay.

12          SECRETARY DOHERTY: I would like to revisit this  
13   M&T situation again. I believe they appeared before us in  
14   the springtime at some point, and they gave us a lot of  
15   documentation, documentation that made me feel that we had  
16   a moral obligation to them, and that this -- I don't know  
17   how many feet it would go to, this past year, which was a  
18   dry winter.

19          But are you telling me that we now have to wait  
20   until this report is finished before we can come to any  
21   conclusion, even though we have seen it and it is -- I  
22   wouldn't want to be living on the other side of it.

23          MR. MAYER: Well, I guess that's what I'm saying.  
24   We don't intend to act in the absence of having this  
25   report finalized. You know, one of the issues is, is this



1 site critical? Is it a critical site that we need to deal  
2 with or could we not? Could we wait longer?

3 SECRETARY DOHERTY: If it were right here in Old  
4 Sacramento, it would be a critical site.

5 MR. MAYER: That's --

6 MEMBER BURROUGHS: I would like to --

7 MR. MAYER: The report will answer that.

8 MEMBER BURROUGHS: I think Lady Bug stated how I  
9 feel as well. There is a moral obligation. I feel there  
10 is a moral obligation. There's a long history, and you  
11 did a very good job of presenting this history over many,  
12 many years. And I think the question -- that's why I  
13 asked about the criteria of how you base your decisions.  
14 But you have two letters responding to them, by you, on  
15 June 15th, and then this other letter on May 24.

16 But I don't really read in the letter any  
17 suggestions of how to get the job done, just a statement  
18 of what somebody else said or what the Corps has  
19 concluded. And at the same time, we have information that  
20 says, this wasn't a final document. The Corps' study was  
21 not a final document.

22 So how can this be based on an incomplete final  
23 document?

24 MR. MAYER: Well, I think that's one of the  
25 challenges we face with the Corps is to get them to

1     finalize a document in the appropriate process. I can  
2     tell you, in numerous meetings and discussions with them,  
3     they have reached this conclusion based upon this draft  
4     report. And that's the way they are acting. And, you  
5     know, on their side, they need to justify that when we're  
6     spending federal money, that it's a justified expense and  
7     defendable and economically justified.

8             And if they can't do that, they are going to be  
9     very uncomfortable proceeding and taking an action. And  
10    that's where they are at, kind of as a result of this  
11    draft report. And I think there's a lot of steps that  
12    need to be done before they can legitimately say,  
13    formally, in writing, what the condition is on the Butte  
14    Basin because of the long history of partnership and  
15    investment in the area.

16            MEMBER BURROUGHS: You mentioned earlier that you  
17    use creative ways in finding funding through -- to make  
18    corrections to levee repairs.

19            Do you have any recommendations?

20            MR. MAYER: With regard to the Phelan levee?  
21    Yeah. The recommendation would be, let's let the report  
22    come out, which will report on the criticality of the  
23    sites and next steps. And then proceed on the next steps.

24            MEMBER BURROUGHS: I personally am not comfortable  
25    with the bureaucracy of where we're at today with this

1 particular issue. And I would like to know if there's any  
2 legal counsel advice about -- or maybe staff has more  
3 recommendations.

4 But Lady Bug did go and see the site. And  
5 definitely, there's a problem.

6 And the second part is, there's formulas that  
7 decisions are made on. But more importantly, there's a  
8 emotional obligation as well. And the history has the  
9 documentation that I would hope that we could be creative  
10 in thinking outside of the box and not continue, just  
11 letting things erode away, until a point of okay, now it's  
12 time to do something.

13 So I'd like legal counsel and if our technical  
14 staff have any comments to help me understand the  
15 situation a little bit better, I would appreciate it.

16 Thank you.

17 GENERAL MANAGER PUNIA: Maybe I can throw some  
18 light. I think the report has to establish, first,  
19 wanting that it has an impact on the federal flood control  
20 project, that if the levee failed -- it's a private levee.  
21 That if the levee fails, then it has an impact on the flow  
22 split, and it's a detrimental impact to the federal flood  
23 control project. I think, then, the Corps and the DWR  
24 will be able to assist on this site.

25 The second point is -- I want to share, Keith is

1 coordinating with U.S. Army Corps of Engineers. If  
2 there's a threat to the levee integrity this flood season,  
3 then Corps and DWR will flood fight. I think Keith has a  
4 meeting with Larry Bergmooser and that they are planning  
5 on going to the site, so that there's a contingency plan  
6 in place if the erosion is threatening the structural  
7 integrity of the levee, so they can conduct a flood fight  
8 under PL 84-99, emergency operation.

9 But in the meantime, this report has to answer  
10 this question. And then the Department and the Corps will  
11 take steps.

12 PRESIDENT CARTER: Mr. Bradley?

13 CHIEF ENGINEER BRADLEY: Yes. Steve Bradley,  
14 chief engineer for the Board.

15 We also -- this is a private levee. And they are  
16 proceeding with an application for a permit to do the work  
17 this year. They have already coordinated.

18 On a technical basis, we don't have a lot of  
19 problems. But just placing rock in a river has always  
20 been an environmental question. But they have already  
21 done an EIR. It is not yet complete; it is very close to  
22 being complete. They have coordinated with all the  
23 resource agencies and have them on board, I believe. So  
24 we did have a conference call this week with several of  
25 the parties, and we are proceeding expeditiously with the

1 permit to do this work by the private entities. It is a  
2 private levee, you know, for their -- but the state has  
3 some interest in doing this, may be resolved down the  
4 line. But at the moment, it is a private entity or  
5 private levee, and a private entity is responsible for the  
6 maintenance of it. And they do have an application.  
7 We're proceeding as quickly as we can, waiting primarily  
8 for CEQA to be complete.

9 VICE PRESIDENT HODGKINS: Steve, did you say it's  
10 a project levee?

11 CHIEF ENGINEER BRADLEY: No, I said it is a  
12 private levee.

13 VICE PRESIDENT HODGKINS: Private levee.

14 CHIEF ENGINEER BRADLEY: It is above the project  
15 levees on the left bank of the river. It's actually at  
16 the upper end of the overflow area into the Butte Basin.

17 VICE PRESIDENT HODGKINS: Yeah. I looked at the  
18 report that Jay referred to last time. And help me if my  
19 interpretation is wrong, but it seems to me that what I  
20 was reading was saying that the Sacramento River flood  
21 control system is designed so that flows in excess of  
22 whatever the design capacity of the levees along the  
23 river, below this overflow into the Butte Basin, so that  
24 that capacity is not exceeded. Do -- does the project  
25 assign a specific maximum flow to the Butte Basin, or is

1 the design of the project simply to make sure that the  
2 flow in the levee portion of the river stays below that  
3 design? And is that the basic issue here, that, in  
4 effect, from the standpoint of the function from the  
5 overall system, the state's primary concern is to make  
6 sure that the levees along the Sacramento River are not  
7 subjected to a flow greater than a hundred and -- I don't  
8 want to quote the number because I don't remember. Can  
9 somebody help me out here?

10 It seems to me that what I read here is, we don't  
11 care if more water goes into the Butte Basin as long as we  
12 don't exceed the capacity of the Sacramento River itself.

13 GENERAL MANAGER PUNIA: I think, Butch, your  
14 conclusion is correct. Our concern is that we don't want  
15 to push more water into the levee section because those  
16 levees are designed for specific flow. So the flow split  
17 is that a hundred-year even is about 300,000 years. So  
18 it's a 50/50 split. And we don't want to change that  
19 split, otherwise there will be more water into the federal  
20 flood control project.

21 VICE PRESIDENT HODGKINS: And the Butte Basin --  
22 here's the part I'm not sure about -- is not really part  
23 of the flood control project in that it doesn't have a  
24 specific capacity assigned to it; is that right?

25 MR. MAYER: That gets back to the question I posed

1 regarding what's the proper functioning of these  
2 facilities?

3           So I don't know the answer, and I don't know that  
4 anybody here knows the answer to your question about, is  
5 there a specific flow split that we're supposed to achieve  
6 in both directions into the system and into the Butte  
7 Basin? Or is it simply, keep the flow, that's entering  
8 the levee system downstream, at 150,000 or less?

9           When we're able to answer that question, then  
10 we're going to be able to get into the -- what is the  
11 state and federal interest here?

12           VICE PRESIDENT HODGKINS: And the Corps' draft  
13 report apparently did the modeling to determine whether it  
14 made any difference to the system, where the system now is  
15 downstream of where the Butte Basin flow comes back in,  
16 and, I guess, the Sutter Bypass. And the answer was, it  
17 didn't make any difference?

18           MR. MAYER: Correct. I generally don't think of  
19 our system as being a robust system. However, with the  
20 respect of this, it kind of is, in that it -- if water  
21 doesn't come out at one relief structure, then that means  
22 more water will come out at the next one. And when the  
23 Corps looked at it through this modeling effort, that's  
24 essentially what they found. So they didn't find  
25 scenarios where, for 300,000 comes down at the M&T, you

1 get more than 150,000 downstream at the levee system.

2 VICE PRESIDENT HODGKINS: Okay.

3 MR. MAYER: So that's why there's this federal  
4 interest.

5 And maybe I would also like to touch back on one  
6 point that Jay made. Jay is absolutely correct about  
7 working with the Corps to be ready for a flood fight.

8 However, the Corps will not do a flood fight to  
9 just protect farmland. So they need to have the  
10 justification that they are protecting lives or  
11 infrastructure. So this report deals with that issue as  
12 well, by looking at what are the damages that can be  
13 expected if the Phelan levee were to break, the damage  
14 that would be in excess of the typical flooding that  
15 occurs in the Butte Basin?

16 So that's another key question that needs to be  
17 answered so that we poise ourselves to receive an  
18 affirmative response from the Corps if we were to ask for  
19 a flood fight.

20 MEMBER BURROUGHS: And again, my comment would be  
21 that it's a system. And just because it's on a private  
22 levee, on private land, with minimal people living there,  
23 it is part of our total system so it does impact  
24 everybody, not just right where the private land is. But  
25 that's my comment. And that's why I asked for legal



1 counsel to also comment.

2 And I think the other point that I'm trying to  
3 understand is that if Mr. Heringer presented to us, last  
4 month, that, in fact, the state had guaranteed as part of  
5 their cooperation, working with the state, to degrade the  
6 levees, that they would help maintain what they had. And  
7 now, it is not happening. I think morally, ethically, and  
8 legally, we should be responsible for what was told to  
9 Mr. Heringer.

10 PRESIDENT CARTER: Ladies and gentlemen, we need  
11 to move on. I want to just make one final comment on  
12 this. And we haven't talked about this except to -- kind  
13 of tangentially. And that is the fact that the system was  
14 modified, these private levees were modified at some point  
15 in the last four decades to allow flows out there.

16 The -- there were specific, shall we say, hard  
17 points or weirs were constructed where overflow was  
18 supposed to take place. Now we're talking about  
19 abandoning a section of the levee and allowing a flow to  
20 flow out wherever it wants to. People in those last four  
21 decades have done things behind those levees in  
22 expectation that those hard points were going to be  
23 maintained, that the system was going to flow out at those  
24 spots, not at some uncontrolled spot.

25 And so, you know, we need to give consideration to

1 the fact that they have -- people have relied upon those  
2 levees since the state and the Corps have made changes to  
3 that system. And we cannot forget that that has happened.  
4 That's got to be part of the equation. That's got to be  
5 part of the report.

6 MEMBER BURROUGHS: Thank you.

7 PRESIDENT CARTER: So with that, I would like to  
8 move on.

9 Mr. Heringer, did you need a minute to --

10 MR. HERINGER: Excuse me. Les Heringer, manager  
11 of M&T Ranch, southwest of Chico. I just wanted to clear  
12 up a couple points that were made here that need to be  
13 addressed.

14 Mr. Bradley said that there is a permit in the  
15 process. It's not for this location. It has nothing to  
16 do with this location. So there is nothing going on right  
17 now at this location with regards to any kind of a  
18 protection project being implemented.

19 Second area I want to just address very quickly.  
20 Here, in 1964, Reclamation Board ordered -- they required  
21 the ranch to degrade that levee. It said that no -- in a  
22 design flood of 300,000 cubic feet per second, no more  
23 than 90,000 cubic feet per second would leave at the M&T  
24 weir site. It didn't say that all three of them or all  
25 150,000 that they want to get out of the river would leave

1 at the M&T weir site. It said up to 90,000 cubic feet per  
2 second will leave at the M&T weir site.

3 This is not just ag land we're talking about here.  
4 We're talking about highways. We're talking about people  
5 that go and back and forth across the valley. We're  
6 talking about commerce. We're talking about the economic  
7 vitality of the counties in this area. We're not just  
8 talking about ag land here. That's why the county has  
9 weighed in.

10 So thank you for -- thank you for continuing this  
11 discussion. This is a very important issue for northern  
12 California.

13 PRESIDENT CARTER: Thank you. Let's take a  
14 ten-minute recess. We'll reconvene here in ten minutes.

15 (Thereupon a break was taken in  
16 proceedings.)

17 PRESIDENT CARTER: Ladies and gentlemen, if I  
18 could ask you to take your seats, we'll continue with our  
19 agenda.

20 We are on Item 7, Three Rivers Levee Improvement  
21 Authority Monthly Report.

22 Mr. Brunner, good morning.

23 MR. BRUNNER: Good morning, President Carter.

24 PRESIDENT CARTER: It still is morning.

25 MR. BRUNNER: It is still morning. And good

1 morning, President Carter, members of the Board. I'm Paul  
2 Brunner, the executive director for Three Rivers.

3 Before I start my comments on the monthly report,  
4 I wanted to do two things: congratulate the Board on  
5 having a full board, welcoming new members on Board, and  
6 really look forward to working with you all on our  
7 project; and then I listened to the discussion on the  
8 roundtable and would really like to congratulate you on  
9 that effort, Rose Marie and Ben Carter, for your efforts.  
10 Really neat. As a fellow levee person out there, working  
11 on the levees and improving them, I think it's a super  
12 effort. So thank you very much for your efforts.

13 The -- at this time, I go through my monthly  
14 update. I'm going to try to really keep it short as to  
15 what we're talking about here. But if you could pull out  
16 the monthly report that we send, I will be referencing it.

17 Once item that's not in the monthly report is, at  
18 least in any detail, was the subcommittee meeting that was  
19 referenced earlier. Member Hodgkins referenced it. That  
20 was held on 11 September. I'm not going to go through  
21 this in a lot of detail. But we did cover three different  
22 topics at that meeting, and they were all aimed at trying  
23 to answer the question in regards to the encroachment  
24 permit for the setback levee that we hope will be heard at  
25 the October meeting before the Board. That will be a big

1 meeting for us.

2 We did talk about the status of our land  
3 acquisition and setback area. I have a few more comments  
4 about that later on, in my presentation.

5 Proposed levee setback alignment. Had a good  
6 conversation about that. And also talked about the Prop  
7 1E and local share. And I will have a couple more  
8 comments about that.

9 Overall, I felt that the meeting was a good  
10 meeting, productive. There were a lot of public comments  
11 that came up towards the end of the meeting. I'm working  
12 with Jay to assimilate all those comments and questions,  
13 and we'll get back the answers to them. I'm looking  
14 forward to the transcript to make sure we get all their  
15 questions. There were quite a few that came up during  
16 that meeting.

17 With that, I would like to -- for you to turn to  
18 page 3 of our report, the other ones that we highlighted  
19 as updates, that are underlined. And I'm not going to try  
20 to go through every update with you, just the more  
21 significant ones. So if there are questions at the end of  
22 the report that you want to know about one of the other  
23 updates, feel free, please.

24 SECRETARY DOHERTY: If you are skipping to page 3,  
25 would you please tell me what the CMP located under the

1 WPIC Levee is? What's the CMP?

2 MR. BRUNNER: Corrugated metal pipe.

3 SECRETARY DOHERTY: Okay. Thank you. And one  
4 other question: The Goldfields is located where? That's  
5 on page 2, statement two, under phase 4. "Design on the  
6 erosion problem that exists just downstream of the  
7 Goldfields."

8 MR. BRUNNER: Goldfields is a reference to a  
9 location along the Yuba River, upstream from where the  
10 gold operations happened, and it's called Goldfields.

11 SECRETARY DOHERTY: Okay. Thank you.

12 But if I were to go drive there, how would I get  
13 there?

14 MR. BRUNNER: I believe you take Highway 20 and  
15 you go along, and you'll -- it's not labeled "Goldfield,  
16 but there are a lot of mining operations that are up  
17 there.

18 SECRETARY DOHERTY: So it's east of Marysville?

19 MR. BRUNNER: Correct.

20 SECRETARY DOHERTY: Okay. All right.

21 MR. BRUNNER: Okay. With that, if we could turn  
22 to page 3, I will focus on Segment 2. And I did show a  
23 map up here. I'm not sure if your visuals show. On this  
24 side, only the one on the right is showing.

25 But Segment 2 is the setback location here. The

1 Yuba being here, Feather and the Bear along through here.  
2 But the project area that we're focusing in mostly now,  
3 over the next couple years, is the Feather. And Segment 2  
4 is the one that will be coming back next month to have the  
5 discussion on the encroachment permit.

6 The -- one of the items that we highlighted in our  
7 report, which is in 3A, was the design and the comments on  
8 the design. I know that was a question that came up  
9 during the subcommittee meeting. We have received  
10 comments from the Corps; they came in yesterday.

11 If there's a question, we could respond, and I  
12 think Ric has responded. He has read through them. I  
13 think depending upon time -- and potentially, the Corps  
14 has a representative here that could comment or respond to  
15 them. Maybe they could do that.

16 And then yesterday, the DWR, Rod Mayer, did share  
17 his comments with us on it. And if there's a -- I believe  
18 he may be presenting, but maybe within the presented  
19 time -- Jay, I'm not quite sure if you guys still want to  
20 do that or not. But I believe he was prepared to at least  
21 share some highlights.

22 The -- so that's good news for us if that  
23 happened. The -- another item that I wanted to comment on  
24 was on, really, a combination of B and C, which deals with  
25 real property. This is 3B and C. We did acquire some

1 property, 5 acres, the Terry family, and did it  
2 cooperatively. We do have, for the setback levee --  
3 that's a positive.

4 And then really, I would like to thank the Rec  
5 Board, Butch Hodgkins, for your effort. Dan Fua came and  
6 worked with us, with the Rice family. We were able to  
7 work through, I think, a cooperative accord. We reported  
8 this at the subcommittee meeting. But the Rice family did  
9 come. We did had a great dialogue. I appreciated their  
10 efforts to come. And I believe we reached a point where  
11 we do have a reasonable solution that we have put forth to  
12 allow us to adjust the levee a little bit, not off good  
13 soil, but move it just a little bit, tweak it as much as  
14 we can, that allows us to maintain the, really, most  
15 important trees for his orchard, for his operations.

16 Part of the discussion that came out of this  
17 was -- he really has -- the Rice family -- some really  
18 important agricultural assets that they need to have.

19 And so I think we have been able to recognize that  
20 and accommodate some things. Easement adjustments, just  
21 slightly shifting the levee a little bit. And then doing  
22 something with a drainage ditch where we are changing it  
23 from a just a dirt line ditch into a concrete land one, to  
24 save some more space.

25 There is something that the Rec Board needs to do



1 in its decision process. So I need your help. And we've  
2 talked with staff about this, and it's come up before in  
3 regards to agriculture. We plan -- as we do all these  
4 adjustments, there's a 50-foot space or easement for flood  
5 fighting off the toe of the levee, on the landside. We  
6 planned to accommodate these really important rows, or  
7 row, of trees to be in that area. We need an adjustment  
8 in the language of the easements, that we work with your  
9 staff, and you guys control, that allows that to occur. I  
10 know staff, Steve Bradley, is working on that with us.  
11 But we really need you to support that and allow that to  
12 happen. So I encourage you to do that.

13 We are working with the Corps and DWR on the  
14 realignment, the little adjustment that we have on our  
15 design. That causes some design changes as we work  
16 through this. We think we can accommodate that and stay  
17 on schedule.

18 The -- moving to 3G, on the Segment 2, the -- we  
19 do hope to have the encroachment permit heard. So when  
20 you're setting up your Board meeting, for October,  
21 hopefully staff will support that. We're pushing for that  
22 30-day window of getting all the comments in. We heard  
23 what you said at the subcommittee meeting, the members  
24 that came about making that happen. I think the comments  
25 have come in. So I would really appreciate the support

1 for that to happen.

2 If we turn to page 4, on the funding update, Rod  
3 Mayer did do a good job, I think, of locating the EIP, and  
4 where we have -- appreciate the questions from Member  
5 Hodgkins about an EIP progress. We did get the  
6 opportunity to respond to a state letter on the EIP  
7 program. Opportunity is -- they did allow us to put  
8 together a financial plan. They have offered the state up  
9 to \$138 million for us to work and build the project for  
10 the Feather River.

11 The project, as defined, is really Segments 1,  
12 site 7, which is part of Segment 1. Segment 3 and Segment  
13 2 are all part of our project that the EIP project  
14 addresses. The state funding, the 138 million is aimed at  
15 Segments 2 and 3.

16 So as part of our financial plan, that will be  
17 coming forward in the next few weeks to submit, will  
18 really address all four of those areas. So we're  
19 financing them. The state funding is addressing those  
20 two -- or just those two areas.

21 So our total project cost is somewhere around  
22 190 million that we have, and -- of which the state is  
23 funding the 138.

24 The -- our plan is to submit the financial plan in  
25 the -- probably the first week in October. There was some

1 extension beyond what we talked to you at the subcommittee  
2 meeting. We were going to turn it in next week.

3           There was some adjustment that the DWR sent out to  
4 all the applicants and gave us some additional time. All  
5 applicants have the additional time to do that. What  
6 we're doing there, is that within the county and us, which  
7 is part of our partners in this, we do have a workshop  
8 that's scheduled for next Tuesday at 10:30, where our  
9 board of supervisors, that will be participating in this  
10 financial plan, will actually have a workshop to talk  
11 about the county's participation, get public input and  
12 discussion on it. And once we have that, we will finalize  
13 the plan and contributions and submit it the next week  
14 into the state for their consideration.

15           Now, in regards to funding, the -- we anticipate,  
16 for our schedule, to sign this agreement, like we've  
17 talked to you before, in the early- to mid-November time  
18 period. And we really are hopeful that funding starts to  
19 flow in the December time period. It's important for us  
20 that we do have funding from direct payments into our  
21 program, particularly the real estate activity.

22           In regards to this, we are exploring -- if the  
23 state doesn't come through this immediately, of coming  
24 with the grant anticipation note or something to try to  
25 front-load this, up front, to bridge the gap. We have a

1 lot of real estate that we have to acquire up front,  
2 during the wintertime, to build the project. We talked  
3 about this during the subcommittee meeting, of acquiring  
4 land. We're going to be working through the wintertime to  
5 build the setback levee, or a back-up levee.

6 What that, I'm going to pause and answer your  
7 questions. Those were the highlights. We did ask -- we  
8 did distribute also a -- the building permits. That's not  
9 a highlight. It's just a few building permits that have  
10 been issued for the last month.

11 But are there questions that I can answer for you,  
12 besides what I just described for you so far?

13 SECRETARY DOHERTY: I have a few questions.  
14 Under -- on page 3, additional materials required, it  
15 says, "Acknowledgment of flood risk." I thought you were  
16 eliminating all flood risk.

17 MR. BRUNNER: That is an acknowledgment of the  
18 existing flood risk at the present time.

19 SECRETARY DOHERTY: At the present time? All  
20 right.

21 MR. BRUNNER: That flood risk is requested. The  
22 county will do that. So Yuba County will be doing that.

23 We prepared the documentation from Three Rivers  
24 and they're prepared to do that.

25 SECRETARY DOHERTY: And then you said that you had

1 had your financial plans on the 25th of September. But  
2 you are saying now that you will not have it prepared?

3 MR. BRUNNER: At the subcommittee, we discussed  
4 turning it in on the 25th, with the sign off, with  
5 everyone. We got feedback last week, or actually since  
6 the meeting with you all, DWR allowed all applicants -- we  
7 did not request this. But they asked -- we gave an answer  
8 or response to all applicants that we could then turn it  
9 in by the first week in October. We've opted to go ahead  
10 and say, that's good. We'll do that at that time. And  
11 we'll use the time for this workshop where we'll talk  
12 about it, and people will be able to come in on Tuesday  
13 and see what we're doing.

14 SECRETARY DOHERTY: So Tuesday, you are planning a  
15 workshop?

16 MR. BRUNNER: Correct.

17 SECRETARY DOHERTY: At the government center?

18 MR. BRUNNER: At the government center.

19 SECRETARY DOHERTY: At what time?

20 MR. BROWN: 10:30.

21 SECRETARY DOHERTY: Okay.

22 And on the next paragraph, grant agreement and  
23 associated operations and maintenance agreement, for that  
24 district, I always forget the number --

25 MR. BRUNNER: 784.

1           SECRETARY DOHERTY: 784? Okay. 784. Are they  
2 actually capable of maintaining these levees once they are  
3 completed? I mean, if they only have a lawnmower and  
4 that's about it, and a few hoses and shovels, is this  
5 district going to be able to maintain that?

6           MR. BRUNNER: One of the goals that we have, when  
7 we finish the project, and one of the tasks, the triggers,  
8 has taken on, is to work cooperatively with RD 784. I  
9 have money in my budget and plans to bring them and  
10 improve their operations or help them along, to maintain  
11 the levees to certain standards.

12          SECRETARY DOHERTY: Okay. Now cost overruns are  
13 going to be the responsibility of your agency, your TRLIA.  
14 Are you anticipating cost overruns? Are you prepared?

15          MR. BRUNNER: Well, cost overruns, when it came  
16 back from the state, the letter from DWR does say that  
17 TRLIA has the responsibility for cost overruns. We are  
18 building in our financial plan -- or a way to deal with  
19 that. We currently, in our project, have \$17 million in  
20 contingency built in already, different components of each  
21 one of those contingencies that are built in.

22          The -- if the project went beyond the  
23 contingencies, then we will be working with the county and  
24 not looking for other funding sources as to where we are  
25 to work through this. It's hard to forecast how much you

1    need without knowing what that need is.

2               So I think it puts a burden on us to come up with  
3    those funds. I think the burden will ultimately get  
4    shared by everyone. It will be an important message as to  
5    where is the overrun. A large part of the setback cost is  
6    in land. The state has agreed to fund 95 percent of land  
7    acquisition. If we had major cost overruns of land  
8    acquisition, for some reason, then we need to come back to  
9    the table and have that discussion. We're not prepared to  
10   do that right now. We're looking for alternate ways, but  
11   we have entered into a discussion with the state. Can we  
12   legitimately come back, on other parts of work, for other  
13   areas, and for future 1E funds, to deal with this project?  
14   Or how do we address this in the area?

15              I do know, for cost overruns -- I've talked to RD  
16   784, to try to make sure that they, in their assets, come  
17   up with the money. It looks like they are cooperative to  
18   do that. We're exploring other grant applications to do  
19   that. We're looking at ways of leveraging our funds,  
20   through bond initiatives and that; an assessment district  
21   into the future. We have looked at different, other,  
22   options to try to find funding sources that could come up,  
23   with additional funds for cost overruns, if they would  
24   happen.

25              SECRETARY DOHERTY: And then on page 4, explain to

1 me the second sentence: "Please be advised that acquiring  
2 real property interests or incurring other project  
3 expenses prior to approval by DWR" -- blah, blah, blah.  
4 "Such expenses will not be eligible for cost sharing by  
5 the state."

6 And yet, you are saying that the state will help  
7 you acquire this property?

8 MR. BRUNNER: Which?

9 SECRETARY DOHERTY: The first paragraph.

10 MEMBER BURROUGHS: What page are you on?

11 SECRETARY DOHERTY: Page 4. Not on that, on this  
12 letter --

13 PRESIDENT CARTER: DWR letter.

14 SECRETARY DOHERTY: DWR letter.

15 PRESIDENT CARTER: This is the DWR letter,  
16 preliminary eligibility notification.

17 MR. BRUNNER: I have a copy, here.

18 SECRETARY DOHERTY: And the properties that you  
19 just told us that you had acquired, the state cannot help  
20 pay for those? Is that correct? What's what I read here.

21 MR. BRUNNER: The -- what -- on page 4 of our  
22 letter from DWR, on the Prop 1E funding, they have -- the  
23 funding window, when we applied for the project, said that  
24 expenses up -- after November 7th, 2006, could be eligible  
25 to do.



1           For us to maintain schedule, we had to go forward  
2   and maintain our pace of Segment 2 activities, like  
3   acquiring property, and all that. With that proviso in  
4   there, expenses after November 7th, we feel reasonably  
5   assured that those will be reimbursed to us under the rate  
6   structure that this letter sets out. There's no  
7   guarantee.

8           But we've been in close cooperation, as close as  
9   we can, with DWR on this project to make sure that we're  
10   doing things within state protocols and keeping track of  
11   the expenses. And we plan to send in the -- all those  
12   expenses may be before the agreement is made, after  
13   November 7th, to the state, and ask for the appropriate  
14   reimbursement.

15           SECRETARY DOHERTY: Even though this says it's not  
16   going to pay.

17           MR. BRUNNER: I -- we have not read it that they  
18   are not going to pay. We take it as an indication. It  
19   says, "Please be advised that acquiring real property  
20   interests or acquiring other project expenses prior to  
21   approval of other projects and execution of the grant and  
22   acquiring" -- "in the matter provided is done at TRLIA's  
23   own risk, and such expenses will not be eligible for the  
24   cost sharing by the state."

25           We take that with the discussions that they've had

1 before, on the application and discussed that with them  
2 during this letter time, Lady Bug, when we sat down with  
3 the letter. We think that we have an agreement or at  
4 least some understanding that we will be able to get  
5 reimbursement for those.

6 SECRETARY DOHERTY: Are there going to be any  
7 overruns, do you think? A hundred percent of any cost  
8 overruns on Segments 2 or 3 of the FRLRB? Are you going  
9 to be able to obtain sufficient funds if there are any  
10 overruns?

11 MR. BRUNNER: Well, I think we -- I commented on  
12 that earlier about the cost overruns, how we would then  
13 try to approach that. Our attempt would be is to hold it  
14 within project costs. And if the cost overruns come we  
15 will -- that exceed our contingencies, we will need to  
16 address that at the time we work with the appropriate  
17 funding, and work that. Hopefully, we'll catch them soon  
18 enough where we can address them sooner.

19 SECRETARY DOHERTY: And on the next page,  
20 Attachment 1, it says you must also have a backup plan for  
21 financing in the event federal funds are not appropriated  
22 in a timely manner.

23 Will you be able to handle that?

24 MR. BRUNNER: Currently, we do not have any  
25 federal funds in this project.

1           The site seven that you see on the map was  
2 originally going to be funded by the federal government.  
3 And to be able to achieve a 200-year protection for the  
4 area, we included that cost as part of this project. That  
5 will be paid for out of our local share that we're doing.

6           We are -- we have applied for Section 104 credit  
7 that would be part of the federal funding system if they  
8 were ever to be -- return the money. But the -- as far as  
9 what we have here, this is a state-funded project along  
10 with local share which will either be -- which will all be  
11 local funded.

12           PRESIDENT CARTER: On the next page, it says,  
13 first paragraph, "The documentation used in the analysis  
14 should included audited financial statements."

15           Do you have audited financial statements for the  
16 last three operational years?

17           MR. BRUNNER: We do. I received those earlier  
18 this week. We had the TRLIA accounts audited. The -- so  
19 I do have the audited reports that came from a CPA.

20           A little bit of a twist to this is that when I  
21 started off on getting those audits, the last three  
22 financial years do not include the one that I was in,  
23 which was FY 06/07. So I have, from TRLIA's beginning, to  
24 the next -- those three years, I'm putting under contract  
25 that the CPA to finish off next -- the last year now that

1 we've moved into this next year.

2 So when this came out, forward, the last three  
3 operating years, I do have --

4 SECRETARY DOHERTY: Because those weren't done at  
5 our meeting, so now do you submit those to the Department  
6 of Water Resources?

7 MR. BRUNNER: They will be part of our financial  
8 package.

9 SECRETARY DOHERTY: Okay.

10 On your third paragraph, your operation and  
11 maintenance costs, "After completion of a -- of the  
12 proposed project, with an analysis of the impact of these  
13 costs" -- now, that kind of goes to district 784, you're  
14 going to have to figure out, even though you say how can  
15 we prepare if we don't know, well, there's a lot of other  
16 districts that, you know, figure out budgets and stuff.  
17 And I would think it would be pretty important, you would  
18 have that done.

19 MR. BRUNNER: Well, we have a response for that  
20 section for the plan. I mean, we've been working with RD  
21 784 extensively to come up with a way to pay for those  
22 additional costs for that. And TRLIA's been working to  
23 try to form an assessment district for O&M operations.

24 The balloting for that is projected to be next  
25 spring, now, in that time period. But we do have some

1 cost projections of what would go into that assessment  
2 district to do that. And that's how we plan to fund the  
3 increased cost.

4 SECRETARY DOHERTY: Okay. Down near the bottom,  
5 it says you have to quantify the residual flood risks.

6 What are they? Are there going to be some  
7 residual flood risks when you finish these projects?

8 MR. BRUNNER: The residual flood risks would be  
9 really in that resolution. And the flood risks that  
10 residual -- perhaps at this time, Ric, would you mind  
11 coming and speak to this?

12 MR. REINHARDT: Ric Reinhardt, Three Rivers  
13 program manager.

14 Any time you live behind a levee, there is a risk  
15 of failure, there's an event that will exceed the designed  
16 event. There's the chance that there are things,  
17 anomalies, that didn't show up in your data collection  
18 process that -- which was the result of design.

19 So right now, we have a very low level of  
20 protection, somewhere around 20-year. And when we're done  
21 with the project, we'll have that up to 200-year. But  
22 there is a risk, there's going to be residual risk of  
23 failure even upon completion of the project, the risk that  
24 this area will be inundated in a very large flood even.

25 SECRETARY DOHERTY: I don't want to live there,

1 then.

2 VICE PRESIDENT HODGKINS: But I do think it's  
3 important to understand that a hundred-year flood  
4 protection means over the life of the mortgage, 30 years,  
5 one chance in four you are going to get flooded. 200-year  
6 only reduces that to one chance in 8, over 30 years.

7 So it's a big improvement. It's having the risk.  
8 But it's a long way from eliminating all risk.

9 And I think that's a -- an important part of  
10 public information associated with anybody who's buying a  
11 house behind levees.

12 MR. REINHARDT: If I could just make one other  
13 comment, and that's to your report about the reclamation  
14 district 784 being prepared to maintain these levees to an  
15 urban standard.

16 We did go through with reclamation district 784  
17 staff and did a detailed evaluation of the current  
18 maintenance practices and then make recommendations of how  
19 those practices should change to meet urban standards, and  
20 then develop the costs associated with that incremental  
21 increase in maintenance, the equipment they need to be  
22 [sic], the additional staff they would need. And that's  
23 the basis for the assessment district that will be going  
24 forward, as part of the Prop 318 election that Mr. Brunner  
25 mentioned earlier next year.

1           SECRETARY DOHERTY: How many miles of levees do  
2 they maintain right now, do you know, that's in their  
3 district?

4           MR. BRUNNER: RD 784 maintains approximately  
5 36 miles.

6           SECRETARY DOHERTY: 36 miles.

7           And how big is their staff, you know, at the  
8 present time?

9           MR. BRUNNER: I think it's less than six or eight.  
10 I think it's less than eight. They have not a large  
11 staff.

12          SECRETARY DOHERTY: Okay.

13          MR. BRUNNER: The TRLIA project that we've been  
14 working on, so far, really deals with somewhere around  
15 29 miles of RD 784's 36.

16          SECRETARY DOHERTY: Thank you.

17          MR. BRUNNER: Thank you. Any other questions?

18          MEMBER BURROUGHS: I have one. This would be for  
19 our staff. On page 2 of 4, top of the page, the reference  
20 to a fence across the levee, says it's been brought to the  
21 attention of the Reclamation Board staff. And is this the  
22 fence that had been in question before?

23          MR. BRUNNER: This is in reference to the fence  
24 that was in question before, yes.

25          GENERAL MANAGER PUNIA: We are -- Jay Punia. We

1 are gathering additional information. I think when we  
2 issue the permit to the TRLIA, the condition was that if  
3 the fence is removed as part of the project, then that  
4 fence can be restored. But if the fence is restored in  
5 addition to what was removed, then they need a permit.

6 And we are asking the information from the 784 and  
7 TRLIA so that we have all the pieces to make a  
8 determination whether the fence was removed as part of  
9 this permit or it's a new fence installed. If it's a new  
10 fence, then we will be working with Ms. Hofman to ask for  
11 a permit, and we will be coordinating with 784 to include  
12 access so that they can provide the proper operation and  
13 maintenance.

14 MR. BRUNNER: On this topic, both RD 784 and Three  
15 Rivers have submitted the documentation that Jay was just  
16 talking about.

17 They -- we do need access to the levee. And  
18 currently, we do not have access. So the issue of getting  
19 the gates and the permits worked out would be really  
20 important for levee maintenance.

21 MEMBER BURROUGHS: Are you not wanting the fence  
22 there at all? Or just, you want to have access to being  
23 able to open and close the fence or the gate?

24 MR. BRUNNER: I think the parties will be  
25 interested to see what the Rec Board will allow for



1 permitting. We had a long discussion about this last time  
2 on it. I think we prefer not to have the fencing there.  
3 But we're willing to work with the parties to see what is  
4 amicable.

5 We definitely need to have access not only to the  
6 toe, or to the top of the levee, to do that -- gates still  
7 open, to close. We also need access along the toe to do  
8 the levee maintenance that we have, to flood fight or just  
9 to maintain the levees. And currently, we do not have  
10 that. Fencing has gone up and has blocked that.

11 MEMBER BURROUGHS: I have not seen the fence. But  
12 I believe the property owner had presented the fact that  
13 she had used the fence before for her cattle operation.  
14 And I guess we'll wait to find out what the information is  
15 on that.

16 MR. BRUNNER: I think the issue on that is, our  
17 documentation would show, from a Three Rivers' point of  
18 view, that the fence was not there before we started our  
19 project, which means that the permitting aspect that was  
20 in question isn't really, from Three Rivers' point of  
21 view, is really there.

22 The question is, was there a fence there,  
23 historically? And that's still -- I think is still an  
24 unknown at this time. And it goes back to the Rec Board's  
25 timing and what's right and what's -- you know, how to

1 work through that.

2 I know Mr. Eres is here, and he'll -- for  
3 Ms. Hofman. And he may speak to this too during the  
4 public comment time.

5 MEMBER BURROUGHS: I have a question about your  
6 mentioning of planting trees on the 50 feet.

7 MR. BRUNNER: Uh-huh?

8 MEMBER BURROUGHS: How -- you mentioned the width  
9 of the area. What is the length of it? And do you have  
10 an idea of what kind of trees you want to plant?

11 MR. BRUNNER: It's not so much planting trees.  
12 It's to leave the existing trees in -- from his orchard,  
13 Mr. Rice's orchard, to leave them in place. I believe the  
14 length that we're talking about is close to -- I'm looking  
15 towards Mr. Rice.

16 MR. RICE: 600 feet.

17 MR. BRUNNER: 600 feet in length.

18 MEMBER BURROUGHS: All right.

19 SECRETARY DOHERTY: Most of our levees have gates  
20 across them, in district 108.

21 PRESIDENT CARTER: Any other questions for  
22 Mr. Brunner?

23 Mr. Punia?

24 GENERAL MANAGER PUNIA: Once Mr. Paul Brunner is  
25 done, I want to brief the Board on their Segment 2

1 application. And Rod Mayer and Meegan Nagy from the Corps  
2 are also here. I think they would like to brief the Board  
3 on the status of the TRLIA's application for Segment 2.

4 PRESIDENT CARTER: Okay. Mr. Hodgkins?

5 VICE PRESIDENT HODGKINS: I have -- Paul, should I  
6 interpret your comments to say that the Corps thinks it's  
7 possible to move that levee 45 feet?

8 MR. BRUNNER: The Corps has -- and Meegan's  
9 probably best to speak to that. I think they've been  
10 silent on it so far. I know what they've talked about  
11 earlier, during our August meetings, where we had the  
12 technical review, about being hesitant to moving it to the  
13 west.

14 In our particular location, what was important for  
15 Three Rivers, when we considered adjusting the levee, was  
16 that we do not adjust the levee off of good soil. That  
17 was the discussion on QM versus QA soil. And QM or QR  
18 being the Modesto formation, and the QA being more of  
19 alluvial soils.

20 This adjustment that we're talking about, at  
21 45 feet, doesn't betray that judgment. It moves it a  
22 little bit farther into the alluvial soil from alluvial  
23 soil. And there's just a little hinge pin as we curve out  
24 a little bit. And if you look at the design, you see  
25 there. There may be a little bit of an area. But in all

1 intents and purposes, I think we stayed true to our  
2 message that we had, that we stayed on good soil for the  
3 levee.

4 PRESIDENT CARTER: Anybody else have questions?

5 Thank you very much.

6 MR. BRUNNER: Thank you.

7 PRESIDENT CARTER: Mr. Punia?

8 GENERAL MANAGER PUNIA: Quick update on the  
9 TRLIA's Segment 2 application. Originally, when TRLIA  
10 submitted an application, it was a combined application  
11 for degrading the existing Feather River levee and  
12 building the setback levee.

13 In staff's opinion, that was definitely a 408-type  
14 application, whereas we need to get the Corps' permission  
15 before we can issue the permit. And based upon further  
16 discussion with the TRLIA staff and the U.S. Army Corps of  
17 Engineers and reclamation board staff, a decision was made  
18 to modify the original application so the application is  
19 just asking to build the setback levee and tying into the  
20 existing levee. So that's the application we are planning  
21 to bring to the Board in -- next month, October,  
22 tentatively planned.

23 And based upon Board Member Butch Hodgkin's  
24 request, we had a meeting yesterday among the Corps, DWR  
25 staff, to know where we are, whether we can bring it to

1 the Board in October timeframe or not.

2 Based on the information we received, we can bring  
3 this application to the Board to ask -- seek the Board's  
4 conceptual approval. We don't have all the pieces needed  
5 to issue a permit. So we will bring -- if the Board  
6 desires, we can bring this application to the Board, ask  
7 for a conceptual approval of the project, and give the  
8 delegation to the general manager so that we can continue  
9 to work with the Corps and DWR and TRLIA so that we can  
10 refine those -- and fine-tune those issues, which still  
11 remain to be finalized, and then issue a permit.

12 And I think Rod Mayer and Meegan Nagy can brief  
13 you where they are and what type of concerns they have on  
14 the application. We are still there -- there are some  
15 holes, and further refinement is still needed before we  
16 can issue the permits.

17 PRESIDENT CARTER: Thank you. Mr. Mayer?

18 MR. MAYER: Good morning again. I'm prepared to  
19 go over and describe where we stand with respect to Corps  
20 comments and Corps review as well as Department of Water  
21 Resources review.

22 I think Meegan is here just to answer any  
23 questions that may come up. I wasn't prepared to give any  
24 presentation, in particular.

25 But with respect to the Corps' review, yesterday,

1 as you know, we received comments from the Corps regarding  
2 Segment 2 application for an encroachment permit.  
3 Unfortunately, the Corps -- and I can understand them  
4 doing this. From their regulatory standpoint, all they  
5 are looking at is the existing federal levee and making  
6 sure that the connections of this 5.6-mile-long setback  
7 levee, the connections at each end, into the existing  
8 federal levee, are done in a way that doesn't jeopardize  
9 the existing federal levee. And so that's what the  
10 comments were focused on, that we received yesterday.

11 So there's a whole other group at the Corps that's  
12 working on the design comments for the 5.6 miles in  
13 between those two points, where we got comments on  
14 yesterday, which is really the area that we're most  
15 concerned about. And I haven't heard back yet regarding  
16 when they will be able to provide those comments.

17 I have reinforced, though, that it's important  
18 that we get them in the very near future, because those  
19 are extremely important to the Department of Water  
20 Resources and, I also think, to the Board.

21 But with respect to the Department of Water  
22 Resources' comments, those were shared, orally, with Three  
23 Rivers Levee Improvement Authority representatives  
24 yesterday. And we will have a written package for them,  
25 either today or Monday.

1           We are in a difficult position of providing  
2    comments at this point on what are characterized as  
3    60 percent drawings. So there's lots of room for things  
4    to change. There's lots of missing information. Some  
5    aspects of the design, the package, the plans, and the  
6    specs, some aspects are probably closer to the 90 percent.  
7    That is nearly done and are really quite ready for review.  
8    Other aspects are, well, less than 60 percent. Overall  
9    it's about 60 percent. So that's one of the challenges  
10   that we deal with. And we're asking, well, we're going to  
11   need a lot more information to fill in these various gaps.

12           We've engaged our division of engineering to take  
13   a lead in the design review. And that does -- so far, it  
14   looks good; we don't see any fatal flaws. That's really  
15   the big story. And from here on, what I will do is get  
16   into some of the specific, more important, design comments  
17   that we've had.

18           One is that there are three specific reaches at  
19   this setback levee where it is located in between slurry  
20   walls, and they total up to about 8,000 feet, where it  
21   looks like the foundation maybe is questionable in our  
22   review from the boring logs, that we've got at this point.

23           And we would like to see additional geologic  
24   information to justify the absence of the slurry walls in  
25   these three reaches, or just include a slurry wall in

1 those three reaches. So that's one of our more  
2 significant comments.

3 Another one had to do with -- actually, what I  
4 should maybe characterize is, there's still some questions  
5 with respect to alignment with three specific sites. One  
6 of them is called the Anderson site, and the Corps of  
7 Engineers had a comment that at the Anderson site, the  
8 levee -- let's put it this way, the foundation veers into  
9 the levee. The alluvial foundation does.

10 So on either side of this site, the levee is on  
11 Modesto formation, and it was commented by the Corps that  
12 it would be very desirable to move the levee eastward to  
13 get it on the Modesto formation on this short reach, and  
14 we can curve it. So Three Rivers is aware of that and has  
15 evaluated the potential for making that alignment shift.

16 Secondly, there's a site where the alignment is on  
17 alluvium. It is not on the Modesto formation. And a  
18 major part of the justification for that, there's a pear  
19 processing plant that would be impacted, and it would be  
20 very costly to have those impacts and pay for them. We  
21 questioned the viability of the pear processing plant if  
22 the pear orchard will be taken out of production, adjacent  
23 to the plant, as a result of the setback levee, which  
24 is -- what we understand is likely to happen. So it's a  
25 question that we've asked Three Rivers to look at this a



1 little bit more closely and make sure that the logic is  
2 correct in terms of where the alignment is.

3           Thirdly, we commend Three Rivers for what it has  
4 done in working with Mr. Rice and adjusting the alignment.  
5 Just yesterday, we received the package showing some of  
6 the geologic information for the new proposed alignment,  
7 the 45-foot adjustment there. And we haven't had a chance  
8 to go through that and review that. And also, they even  
9 note that additional hydraulic modeling will be done as  
10 well as two additional borings. So we're keeping a very  
11 open mind on that one. We would like to make it work, of  
12 course, but from an engineering perspective, there's some  
13 review that needs to occur there and additional data.

14           One of the other major concerns is that a gravity  
15 drain is proposed for pumping plant 3. This would be a  
16 new gravity drain structure through the levee that's not  
17 replacing the existing gravity drain in the existing  
18 levee. There are two other gravity drains in the existing  
19 levee that the setback levee would have new gravity drains  
20 to kind of match those. But this would be a new one.

21           And although the gravity drain could be built  
22 according to the Reclamation Board standards, gravity  
23 drains do give us concerns, and the Corps questioned the  
24 wisdom of putting a gravity drain there. And we concur  
25 with that and ask that Three Rivers do an economic

1 analysis to justify the additional cost that DWR and the  
2 state paying for gravity drain versus a pump station and  
3 over -- actually, there will already be a pump station  
4 over to deal with those situations too, I believe. So  
5 we've asked for an economic analysis that would justify  
6 that.

7 One of the largest concerns we have is with  
8 respect to the tie-ins, that we don't have a continuous  
9 slurry wall design connection at each tie-in. Rather, the  
10 way the tie-ins are designed is, you have slurry walls at  
11 each end of the new setback levee that essentially  
12 parallel the existing levee, but they are set back, and  
13 there's a gap of 50 to a hundred feet.

14 We would like to see more of a robust tie-in,  
15 where the slurry walls are right up against each other.  
16 And there will likely be some impacts on recreation  
17 dealing with that, because there's a nearby boat ramp, and  
18 perhaps some other cost issues associated with it. But we  
19 think that would be important to have a better tie-in than  
20 what's currently proposed.

21 One of the other issues is -- this was really  
22 Steve Bradley's comment. And some of these were actually  
23 done in collaboration with Reclamation Board staff,  
24 including Steve and others. This one is specifically from  
25 Steve. We wanted to see a table that shows the water

1 surface elevations and levee -- proposed levee height and  
2 make sure that what they are proposing isn't a raise of  
3 the levee and does provide 3 feet of freeboard for the  
4 200-year water surface. They have provided a profile, but  
5 he specifically requested a table. And we emphasized  
6 that.

7 We've also asked that they perform a seepage  
8 analysis with water surface put at the top of the levee,  
9 which is what we think the Corps' new design standard  
10 would be. We are trying to be consistent with Corps  
11 design standards. So we've asked for that. They have  
12 said that they will do that. In fact, they have already  
13 done it, for the most part. But they will revisit that  
14 and present that information to us.

15 And finally, the other comment was, we've asked  
16 that they justify that 3 feet of freeboard as adequate  
17 when the wind, wave, and water is set up. Our analysis  
18 showed that under worst conditions, you could have more  
19 than 3 feet of wave build-up and some water going over the  
20 top of the levee.

21 Any questions?

22 PRESIDENT CARTER: Any questions for Mr. Mayer?

23 VICE PRESIDENT HODGKINS: Rod, those are pretty  
24 significant comments. I wouldn't mind some detailed  
25 response.

1           I have just an overall question in dealing with  
2   this kind of a project. Because in some ways, the same  
3   thing will come up on SAFCA, perhaps West Sacramento  
4   eventually. Is there a coordination between DWR and the  
5   Corps with the idea of either melding their comments  
6   together or at least getting them both to the project  
7   proponent in a timeframe where if they are going to go  
8   through and make revisions, they can do them all? Are you  
9   attempting to do that at all?

10           MR. MAYER: I don't think we're doing that nearly  
11   as well as we should be. So I agree with you.

12           And at this point, the Corps' pretty much been  
13   hunkered down there in their side, doing their thing. And  
14   we've been doing the same. We haven't engaged in -- we  
15   haven't really known who the right people were to engage.

16           We really thought it was Meegan's group. We knew  
17   they were developing comments. We learned, well, that's  
18   not really the right group in this case. Maybe they are  
19   in other cases. So there's some work to do there. But I  
20   agree with your goal.

21           VICE PRESIDENT HODGKINS: And then another piece I  
22   would like to share with both the Corps and the DWR is,  
23   until our staff has seen those comments and whether they  
24   are significant, the responses to them, they are not  
25   comfortable bringing a permit application forward to this

1 Board.

2 I'm curious as to whether you think that that's  
3 the way we should be doing this, even if it adds,  
4 potentially, another 30 or 60 days to the process of  
5 getting a permit, or, is, in fact, the Board's role, in  
6 your opinion, more along the lines of it being sure that  
7 we're prepared to accept the change to the project, if you  
8 will, the conceptual part, and leave the technical work to  
9 you and the Corps?

10 I mean, do you -- are you -- are DWR's comments  
11 and the Corps' comments -- is the understanding here that  
12 no matter what, in the end, both sets of comments will be  
13 addressed by the applicant?

14 MR. MAYER: I think the applicant may or may not  
15 necessarily have to deal with the Corps comments  
16 immediately. But in the end, they do, to make it a  
17 federal levee. And so they need to from that perspective.  
18 But DWR, I think, would insist upon the Corps comments  
19 being addressed by the applicant.

20 So does that answer that part of your question?

21 VICE PRESIDENT HODGKINS: Yeah. I'm asking that  
22 question not only for this project, but for projects in  
23 general.

24 MR. MAYER: In general, especially if there's a  
25 potential for federal credit involved or the project to be

1 a 408 project, so we ultimately need the Corps to approve  
2 it. We all have to be on the same page with the Corps.  
3 There might be times where we disagree with the Corps and  
4 we're pushing to the extent we can. But in the end, they  
5 have to make that approval.

6 VICE PRESIDENT HODGKINS: Okay. Okay. And do you  
7 think we should be waiting until all the technical issues  
8 are resolved before we consider a permit?

9 MR. MAYER: I think that's something the Board has  
10 to wrestle with. And I think you heard a couple of  
11 options presented. One is, you could do a conceptual  
12 approval ahead of time and then delegate authority to the  
13 general manager; and the other is, wait until everything's  
14 in place, schedule a board meeting, and have a board  
15 meeting. My concern would be that second option could  
16 delay construction. And that would be a shame, concerning  
17 the tight timeline.

18 One other option I can throw out for you, which I  
19 know your staff is well aware of, would be, they do issue  
20 a permit. And maybe that's what was meant by conceptual  
21 approval. You can get an overall permit, but it has it  
22 in, clearly, conditions requiring that the general manager  
23 or chief engineer approve a hundred percent stamped  
24 planned drawings and specifications before construction on  
25 those elements proceed.

1           And there have been permits done like that in the  
2 past. There have been major projects where conceptual  
3 permits are granted and individual permits branch off of  
4 that, or you could have the more detailed conditions in  
5 the permit to deal with specific approvals. It depends on  
6 what the Board's comfort level is, frankly, in terms of  
7 what you are seeing, what you are hearing from the staff,  
8 how far along the project is with respect to the design.

9           VICE PRESIDENT HODGKINS: Thank you.

10          MEMBER BURROUGHS: Mr. Mayer, with your comment  
11 about the overall design, and some of it is over  
12 60 percent complete and some of it's under, and in  
13 particular, that there's a lot of room for changes, how  
14 could anyone be comfortable with not seeing the whole  
15 picture?

16          MR. MAYER: Well, it depends on what the details  
17 are. I suppose you could be at 99 percent level, right?  
18 And be really comfortable of where things are and the last  
19 1 percent there's a change in alignment that, well, the  
20 people would be uncomfortable with that. But I don't  
21 think that's where we are.

22          I think we're talking about nailing down the  
23 alignment, or getting pretty close to it, except for the  
24 three areas here that we talked about. And then specific  
25 details about maybe what a seepage berm design is versus a

1 stability berm, filling in some missing data with respect  
2 to drill logs and geologic information, some other things  
3 like that, that probably don't make a big difference in  
4 the end.

5 At this point, 60 percent, I think there is enough  
6 room that there's some discomfort about saying, Yeah, go  
7 ahead." So I do think we need to make sure that we're  
8 agreeing on a hundred percent plan drawings before  
9 construction proceeds. But you have a flexibility, if you  
10 would like, to agree, in concept, upon a particular  
11 alignment and particular dimensions, and approve it on  
12 that basis. And if it deviates from that, perhaps the  
13 approval was rescinded. You can put conditions in permits  
14 if you would like, to deal with issues like that.

15 MEMBER BURROUGHS: Thank you.

16 And then also I have a question about -- in  
17 regards to the drain and you would like TRLIA to perform  
18 an economic analysis to substantiate the drain.

19 If they didn't put the drain in, what would happen  
20 with the water?

21 MR. MAYER: Well, they would put in a pipeline  
22 that goes over the levee, to the pump station, and pumps  
23 it. It's very common. In fact, that's more typical than  
24 a gravity drain. However, there's a continuing operation  
25 and maintenance cost of pumping, in particular in electro



1 power, for that, that may make that economically a very  
2 poor decision relative to a gravity drain.

3 So we would ask for that economic analysis to see  
4 if they really have a strong justification for putting in  
5 a gravity drain versus the pump station without going  
6 over.

7 MEMBER BURROUGHS: Thank you.

8 SECRETARY DOHERTY: One more question: The gravity  
9 drain goes through the levee?

10 MR. MAYER: Correct. In fact, down, below the  
11 levee.

12 SECRETARY DOHERTY: I thought that that was no  
13 longer going to be allowed, pipes through the levee?

14 CHIEF ENGINEER BRADLEY: The regs allow that if  
15 it's a public agency.

16 SECRETARY DOHERTY: Pardon?

17 CHIEF ENGINEER BRADLEY: The regulations allow a  
18 subsurface gravity drain below the levee if it's a public  
19 agency, not a private individual.

20 SECRETARY DOHERTY: Thanks.

21 PRESIDENT CARTER: Any other questions?

22 MEMBER RIE: I have a question. And maybe Ric  
23 Reinhardt would be better to answer this question. Rather  
24 than push the setback levee further east to get off the  
25 alluvium, have you guys looked at overexcavating the

1 alluvium and putting in engineering fill?

2 MR. REINHARDT: Ric Reinhardt, Three Rivers  
3 program manager. There are two issues with respect to the  
4 reach where the canning facility is. One is the Modesto  
5 formation, in this particular reach, we don't believe is  
6 of the quality that is in the other reach. And it's not  
7 too different than the alignment that we chose. And we  
8 have incorporated measures into it, including excavation  
9 of inspection trench to mitigate being on those foundation  
10 conditions. We're going to present that information to  
11 the DWR geotechnical staff to see if they concur, and then  
12 look at all the costs that would be associated, if the  
13 decision is made, to move the alignment to the east and  
14 take out that processing facility. But we will look at  
15 all seepage mitigation measures if it's determined that we  
16 need to stay on line, where we are.

17 And if I could just add two clarifications.  
18 Today's the first time I've heard of this conceptual level  
19 approval. I would remind the Board that in all of the  
20 permits that you have approved, they weren't based on  
21 final plans of specifications; they tended to be based on  
22 90 percent plans and specifications. The Board took  
23 action. And before the permit became effective, the  
24 general manager -- we had to submit the 100 percent plans.  
25 I don't think that's any different in this case. The

1 difference is, they happen to be 60 percent plans. But  
2 ultimately, the permit is not valid until we get that to a  
3 hundred percent.

4 And the second point I wanted to make is that the  
5 Corps of Engineers has submitted their comments. They  
6 submitted their comment letter stating that they do not  
7 object to issuing this encroachment permit.  
8 Unfortunately, it doesn't include all the comments that we  
9 thought we were going to get, on the alignment of the  
10 project.

11 We have had the Corps of Engineers, as you are  
12 aware, do the certification of this project, to date, the  
13 work that's been completed, to FEMA. And we intend to  
14 continue that relationship and having them certify the  
15 Feather River levee.

16 And so we certainly are looking forward to getting  
17 the Corps' comments. We hope to get them in a timely  
18 manner. And we will be forced to address them in a way  
19 that's satisfactory to the Corps if they are going to do  
20 the certification.

21 And so I don't believe that -- and I would defer  
22 to staff too, for their opinion on this. But we need  
23 additional comments from the Corps, for the Board to take  
24 action on this permit.

25 PRESIDENT CARTER: Thank you.

1 I would like to hear from Ms. Nagy, from the  
2 Corps, on where they stand.

3 MS. NAGY: This is Meegan Nagy from the Corps of  
4 Engineers.

5 What we submitted yesterday were comments on the  
6 encroachment permit. So the encroachment permit requested  
7 tie-in of a backup levee to the federal project. So the  
8 comments focused on how that would impact the federal  
9 levee at those points. It specifically states in the  
10 comments that this does not allow approval of degradation  
11 of the existing project levee, and that that request would  
12 have to come to us under a 408 action. So it specifically  
13 precludes that.

14 This -- this is basically being viewed as any  
15 other nonfederal levee that would be tied into a federal  
16 project. That is how we looked at it for the purposes of  
17 the permit.

18 Obviously, we are also looking at the alignment,  
19 most appropriately, under our general reevaluation report  
20 and the Section 104 request. So we are also looking at  
21 the engineering of the entire levee. But it wasn't  
22 required for the purposes of the permit.

23 PRESIDENT CARTER: Do -- does the Corps -- I  
24 thought I just heard that the applicant was looking for  
25 comments in relatively short order with regard to the

1 engineering and the alignment and whatnot. Is the Corps  
2 going to be submitting those kinds of comments sometime  
3 soon?

4 MS. NAGY: We've already submitted the hydraulic  
5 comments. They are waiting for the geotechnical comments.  
6 It will probably be a couple more weeks before we have  
7 those written.

8 PRESIDENT CARTER: Okay. Very good.

9 Any questions for Ms. Nagy?

10 Thank you very much.

11 Does -- the hour is getting a little bit late. I  
12 do have a few people who wanted to comment on -- from the  
13 public on this particular item.

14 Mr. Rice?

15 MR. RICE: Thomas Rice, owner of Rice River Ranch.  
16 My comments will be brief and they will be very similar to  
17 what I presented at the recent subcommittee meeting. But  
18 I do believe a short presentation of this material does  
19 bear your attention.

20 Ladies and gentlemen, my concern from the very  
21 beginning of the TRLIA levee work has been to see that we  
22 gain efficient and cost effective public safety while at  
23 the same time representing and preserving the value and  
24 contributions of the community. I have been involved with  
25 these issues from the beginning of this project, including

1 my continued presence at these meetings.

2 One of the primary issues of contention has been  
3 the alignment of the setback portion of the Feather River  
4 levee. I still firmly believe that had we seen from the  
5 beginning a more open and inclusive approach and policy  
6 that truly evolved in respect of likely interested  
7 affected parties, the result could have been a superior,  
8 less destructive, and less contentious approach.

9 Indeed, with the data I have seen presented to  
10 date, data which actually confirmed the early information  
11 I provided on soil type and land structure based on four  
12 generations of family knowledge and experience, with the  
13 state of the sediment to date, I'm convinced, we could  
14 have done far better. But we are where we are, and I am a  
15 practical and reasonable person.

16 And while the destruction being caused by the  
17 proposed alignment is substantial, we need to get this  
18 levee work done as well. To this end, I have continually  
19 asked for this Board and for DWR to assist in having TRLIA  
20 truly work with affected parties, such as Rice River  
21 Ranch, to find tolerable and workable solutions.

22 With your help, such efforts, such work, is  
23 finally occurring.

24 As you heard mentioned today and in recent weeks,  
25 TRLIA has been working with us to find such a solution.

1 We are very close in agreement, and I have no material  
2 disagreements with the proposal that TRLIA has presented.  
3 I will let that sink in. We have no material  
4 disagreements.

5 But time is exceedingly short here, and we need to  
6 take this proposal that TRLIA has and has presented to  
7 this Board, to DWR, and to the Corps, and to finish  
8 solving this amicably and quickly.

9 We sincerely need this Board to continue to  
10 strongly request and require TRLIA to quickly complete  
11 this agreement, to work with them to satisfy any questions  
12 or concerns from DWR or from the Corps, and to hold  
13 them -- to hold TRLIA accountable should the solution not  
14 be delivered.

15 We are very close. Let's get this finished.

16 Again, I thank you very much your time, your  
17 attention, and your patience throughout these efforts.  
18 And I thank you especially for your efforts in finally  
19 encouraging TRLIA to work with the community.

20 I would be glad to take any questions.

21 SECRETARY DOHERTY: I don't have a question. But  
22 I have an apology to give you. Because I sat here and I  
23 listened to you, and I read your letters that you sent me,  
24 and I didn't approach you. And I'm glad that -- I don't  
25 know whether it was Mr. Punia or Mr. Hodgkins that finally

1 did approach you. I felt that maybe it was outside my  
2 permission. And so I let somebody else -- you know. And  
3 I felt so bad about it.

4 But I'm glad it's progressing.

5 MR. RICE: We are close. We have, as I'm sure  
6 Mr. Brunner and Mr. Reinhardt and all the staff will  
7 agree, we're threading the needle here. We are barely  
8 able to save a viable agricultural and cultural -- a  
9 community asset here. And it just keeps within their  
10 technical guidelines. Let's finish threading this needle  
11 and get this done.

12 PRESIDENT CARTER: Thank you very much.

13 Mr. Foley?

14 MR. FOLEY: Tom Foley. Good afternoon, Board  
15 President and the Board and Ms. Suarez.

16 Our little group, Concerned Citizens for  
17 Responsible Growth, have been brought to the Board since I  
18 think December. We were formed in 2004. And I pay  
19 attention. I've been on the scene. So since December,  
20 we've recommended that if it's possible, legally, somehow  
21 possible, the State should take this project over.

22 And all indications are that with what has come  
23 forward now, the engineering here is not good. And I  
24 think it's going to come out very clear that the financing  
25 is not going to be there.



1           So it seems very clear that the State, DWR, and  
2   the Rec Board need to closely examine their rationale for  
3   this continuing. Why does this state project, federal --  
4   state-owned project levee -- it's being done half-assed.  
5   This will be an area of 50,000 people, at least. This is  
6   post-Katrina, post-Paterno. The state pays under Paterno.  
7   It's a use question. Why -- what is the state's  
8   rationale? It must have a rationale for what is going on.

9           So Concerned Citizens of Responsible Growth would  
10  like to reemphasize that, that the State should, if  
11  possible, take this project over.

12           Thank you.

13           SECRETARY DOHERTY: Why are you saying the  
14  engineer is no good?

15           MR. FOLEY: From what we just heard. The data has  
16  use questions on where it's being put. The Corps has  
17  questions.

18           SECRETARY DOHERTY: Well --

19           MR. FOLEY: They call that second-rate. It's  
20  done -- being done half-assed for urban areas.  
21  Post-Katrina, post-Paterno, and post-1E. We have put up  
22  \$3 billion for these projects. State project levees need  
23  to be done right. And this Rec Board has quite a bit of  
24  evidence of how it's being done.

25           Thank you.

1           PRESIDENT CARTER: Thank you. Mr. Eres?

2           MR. ERES: Thank you, Mr. Chairman and members of  
3 the Board. Tom Eres representing Hofman Ranch. And  
4 welcome, Ms. Suarez, back to the Board. It's good to see  
5 you.

6           I hear the tummies growling all the way back  
7 there. So I will be very brief. First of all, great job  
8 on the report this morning dealing with vegetation on the  
9 levees. Shows that when this Board really puts its  
10 shoulder to the wheel, it can become a really catalyst for  
11 the kind of coordination that yours truly has been  
12 suggesting for some time. And I hope it's a precedent for  
13 being able to work closer in terms of connectivity between  
14 DWR, Corps of Engineers, FEMA, the Reclamation Board, on  
15 the systematic approach of taking a look at the levees.

16           The levee simple, as you know, has morphed over  
17 time in California, and they are far more connected than  
18 they ever used to be. So the idea that you have an urban  
19 set of standards, you have a rural set of standards --  
20 it's one system. And you better take a look at evacuation  
21 routes in some of these areas where these so-called rural  
22 levees are. Because if they flood, the roads flood, there  
23 is no evacuation route.

24           I would also like to personally thank the  
25 subcommittee, Butch Hodgkins and Ben Carter and Lady Bug

1 for the subcommittee meeting that you had up in  
2 Marysville. One of the best I've attended. It was  
3 comprehensive in terms of the information. It gave those  
4 of us who are monitoring this process a lot better feel  
5 for not only where Three Rivers believes it is, but where  
6 our concerns can be more directly focused and expressed.

7           There were two items on the staff report or the  
8 status report that affected my client. One of them had to  
9 do with a pending right-of-way issue. We're still working  
10 that issue. There is a history here, not a pleasant one  
11 with respect to my clients and Three Rivers in dealing  
12 with past use of so-called easements that weren't there,  
13 trespasses, if you will, biological activities that took  
14 place on property, that there was no business, somebody  
15 going over there, doing biologics on. I'm working with  
16 Mr. Scott Shapiro to try to get a number of answers to  
17 the -- to my client.

18           I'm also going to request of him -- with his  
19 technology, I guess, of this helicopter that has this pod  
20 on it -- that maybe we can resolve the issue. If they are  
21 looking for a corrugated pipe, maybe it can be a  
22 nonintrusive way of finding it. Not my field; I don't  
23 know anything about it.

24           Still working on the fencing issue with your  
25 staff. I appreciate their cooperation. We are trying to

1 get to the bottom of it. And I am gathering a fair amount  
2 of information of people who know about that, going back  
3 15, 20, 25, 30 years. So we'll work through that piece of  
4 it.

5 And then finally, picking up on my subcommittee  
6 remarks, still some concerns on the matching fund  
7 requirement of Three Rivers with respect to this grant  
8 that we've got from the Department of -- well, from the  
9 State. And I trust that you will continue to monitor  
10 that, because I'm hearing numbers that I'm just not --  
11 they are hard to match up.

12 Also, I would hope that you would be very careful  
13 in not doing conceptual approvals. We're trying to do  
14 things that would be like, well, we'll grant the approval,  
15 but we'll give you 3,000 pages of conditions. And if they  
16 don't get met, we'll rescind the approval. That's a  
17 non-starter; that doesn't work; that's impractical.

18 I understand Three Rivers' desire to get forward  
19 and move on its project. But just in listening to  
20 Mr. Mayer's punch list, it gives me enough pause. I  
21 recommend that it give you considerable pause. And I  
22 think Mr. Hodgkins is on the right path: Let's do it  
23 right. It takes another 30 days to get all that  
24 coordination done, to get the information to you.

25 Those of us that sit out there are not just

1 crumpled suits and a potted plant. We like to take a look  
2 at what you guys have and provide you, we hope, with some  
3 realistic input from the public.

4 Thank you very much.

5 PRESIDENT CARTER: Thank you.

6 Mr. Punia?

7 GENERAL MANAGER PUNIA: I'm going to request from  
8 the Board to resolve this fencing issue. If it's okay  
9 with the Board, I'm seeking Board Member Lady Bug's  
10 involvement in this issue to work with TRLIA and  
11 Ms. Hofman to resolve this issue, if it's acceptable to  
12 the Board. I think it's a very sensitive issue. I think  
13 if it's okay with the Board, then Lady Bug can help us end  
14 this issue.

15 SECRETARY DOHERTY: I would be happy to.

16 MEMBER RIE: Thank you, Lady Bug.

17 PRESIDENT CARTER: Lady Bug is willing.

18 Any objections?

19 Okay. So directed.

20 GENERAL MANAGER PUNIA: Thank you.

21 Anything else on this item?

22 If not, then we will adjourn for lunch. We will  
23 reconvene here in one hour -- make it 1:30. So we will  
24 see you then.

25 Thank you.

1           (Thereupon a break was taken in  
2           proceedings.)

3           PRESIDENT CARTER: Good afternoon, ladies and  
4 gentlemen.

5           We will reconvene our meeting. As you recall, we  
6 adjourned for lunch after Item 7. What we will do, the  
7 Item 8 is an untimed item. And since we're behind  
8 schedule, we're going to go ahead and go to timed items,  
9 so we will move to Item 10 on the agenda and continue on  
10 through timed items since we're behind, and we'll come  
11 back to untimed items after, probably, Item 13.

12          Okay. So with that, Item 10, consider approval of  
13 changes to the delta levees subventions guidelines and  
14 requested reimbursement amounts.

15          Mr. Mirmazaheri?

16          MR. MIRMAZAHERI: Good afternoon, Mr. President.

17          PRESIDENT CARTER: Sorry for the delay.

18          MR. MIRMAZAHERI: No problem. I learn to be  
19 patient when it comes to the Board.

20          (Laughter.)

21          (Thereupon an overhead presentation was  
22 presented as follows.)

23          MR. MIRMAZAHERI: Members of the Board, let me  
24 begin by thanking the Board for providing support to delta  
25 levees program, in particular Member Teri Rie in the

1 subcommittee has been really appreciated.

2           If you will recall, I briefed the Board in July  
3 meeting. I talked about the authority for the subvention  
4 program, the goals of the program, and we discussed the  
5 current guidelines and possible changes that would be  
6 proposed at this meeting, discussed the process. You  
7 know, give you a little bit of a historical perspective.  
8 We talked about funding in the past, and also the funding  
9 for this current fiscal year, 2007/08 and also mention  
10 some of the issues.

11                               --o0o--

12           MR. MIRMAZAHERI: In July, I told the Board I  
13 would be back. And I asked the Board to consider changes  
14 to the guidelines and also will report on funding because  
15 we didn't have the budget at the time, for 07/08 and then  
16 propose reimbursement.

17                               --o0o--

18           MR. MIRMAZAHERI: What the program is, really  
19 quickly, it has authorized under Water Code Sections 12980  
20 through 12995 -- the goal of it is to reduce the risk of  
21 flooding in the delta.

22           Our program is in line with CALFED levee system  
23 integrity. And one of the features of the program is  
24 no-net long-term loss of habitat, which is being -- is  
25 part of AB 360. It was added to the program. And that's

1 to make sure that the environment and habitat is not  
2 compromised as a result of any project.

3 Local maintaining agencies, most of the districts  
4 in the delta, they complete the project. It is their  
5 project. They do the design and everything else. And  
6 basically, once we come to the conclusion that the project  
7 is qualified for reimbursement, then we consider  
8 reimbursement for the project.

9 And just the last note, as far as the program at  
10 the end of each project, there's a joint session by Fish  
11 and Game, DWR, and -- what I forgot to mention in this  
12 slide, and the locals as well. So it's a joint  
13 inspection, three-way joint inspection that is conducted.  
14 And based on the result of the inspection, decisions on  
15 final claims are made.

16 --o0o--

17 MR. MIRMAZAHERI: As far as the Board guidelines,  
18 our goal is to build the levees to a higher standard.  
19 Local maintaining agencies typically pay for the first  
20 thousand dollars per levee mile of the expenditure. And  
21 LMAs that are eligible for the program, that includes  
22 project and nonproject levees in the delta.

23 State share is no more than 75 percent of the  
24 total expenditure. The guidelines has maintenance and  
25 then has three priorities. The maintenance itself is



1 currently limited to \$15,000 per levee mile. That's as  
2 far as the reimbursement from the state. Later on, I will  
3 propose that dollar amount to be increased to \$20,000 per  
4 levee mile. And then in terms of priorities there are  
5 three priorities which, depending on how much funding is  
6 available, then we'll just begin with maintenance and then  
7 continue on through the priorities, and -- to the extent  
8 that we have funding, we will proceed with reimbursement.

9 --o0o--

10 MR. MIRMAZAHERI: This is just a summary of the  
11 priorities. As I said, maintenance is one category by  
12 itself, limited to \$15,000 per levee mile. And then  
13 priority one includes a Board's project. That has the  
14 highest priority. Then fish and Wildlife has a mitigation  
15 plan. And then 192-82, which are levee standards that the  
16 district will try to meet.

17 Priority two is any project that exceeds a hundred  
18 thousand dollars per mile.

19 And priority three is any project that is built  
20 beyond both the 192-82 standards.

21 --o0o--

22 MR. MIRMAZAHERI: This is just a graphical --  
23 basically the same thing as far as details. And between  
24 1997 and 2006, ten years, on the average, for maintenance,  
25 the applications amounted to about 650 miles, a total

1 dollar amount requested of about \$5 million, which  
2 translated to levee mile unit cost of \$7,000 per levee  
3 mile.

4 And priority one, on the average, 180 miles was  
5 covered in the program in last ten years, which amounted  
6 to about \$4.5 million, and \$26,000 cost -- cost per levee  
7 mile. That's as far as the statistics.

8 --o0o--

9 MR. MIRMAZAHERI: As far as this year, for 07/08,  
10 as I reported and briefed to the Board in July, we  
11 received 68 applications from 68 districts, which is for a  
12 total amount of \$82.3 million. Out of that, the staff  
13 just went through the applications and did some analysis.  
14 \$10 million is pretty much proposed to be spent on the  
15 maintenance.

16 Priority one, based on the applications received,  
17 is \$35.3 million;

18 Priority two, 22.2;

19 And priority three, 12.1.

20 Again, just as a refresher, once the application  
21 will come in, the staff will look at each application, the  
22 project that is proposed, and based on the guidelines of  
23 the Board, the staff will decide which portion of the work  
24 is maintenance, which portion of it is -- falls within  
25 each priority and categories. So that's how these numbers

1 came up.

2 --o0o--

3 MR. MIRMAZAHERI: I did mention that as far as,  
4 you know, maintenance cap, I will propose an increase in  
5 maintenance. Historically, up to 1995, the cap of  
6 maintenance was at 12,500 per levee mile. In 1995, around  
7 1995, it was decided to raise it up to \$15,000 per levee  
8 mile. And again, that's the dollar amount as reimbursed  
9 from the state to local maintaining agencies.

10 What I'm proposing is to increase that to \$20,000  
11 per levee mile for a few reasons: One is that the cost of  
12 operation is higher than ten years ago, of course. It's  
13 costing the districts more; the second part of it is that  
14 this way, they will have a little bit more cash flow, and  
15 they can actually maintain more levee miles than they  
16 could now.

17 So I think the benefits of that is pretty clear.  
18 The question that we were dwelling the last few months and  
19 talking to the districts and also at the subcommittee  
20 meeting with Member Teri Rie is, what is reasonable?  
21 Basically, numbers as high at 25,000 were being  
22 considered. But then the impact of it, on some of the  
23 other work, the other valuable work, was considered. And  
24 based on that, it appears that \$20,000 will give a better  
25 chance to local districts to maintain more levee miles.

1 At the same time, it does not have any severe impact on  
2 other type of projects which falls within priority one,  
3 two, and three.

4 --o0o--

5 MR. MIRMAZAHERI: In your package, we have six  
6 tables. First three tables are based on current cap of  
7 \$15,000 per mile. And then the second set are based on  
8 proposed \$20,000 per mile. So you have both at your  
9 dispense.

10 Table 5 is the estimate of reimbursement based on  
11 \$20,000, which later I will propose as part of my  
12 recommendation for approval.

13 You also have proposed guidelines and procedures  
14 dated today, this Board meeting. And we did that based  
15 upon a recommendation from the counsel, Board counsel.  
16 And basically, this is a consolidation of the existing  
17 procedure and the amendments that came through, since  
18 1988. All that being consolidated, the only change is,  
19 again, just a maintenance cap. Nothing else has been  
20 changed except consolidation of all the documentation.

21 So again, you're going to look at one document  
22 instead of the document and trail of amendments. But the  
23 only change on that is just what I'm proposing, increases  
24 in capital maintenance.

25 --o0o--

1           MR. MIRMAZAHERI: So we get to the staff  
2 recommendation. What I'm proposing is, one, again, for  
3 the Board to consider approving increase, of up to \$15,000  
4 cap on maintenance for each levee mile, to \$20,000 per  
5 levee mile.

6           Also, at the same time, the proposed changes that  
7 are reflected in the procedure and the procedure as it was  
8 consolidated with all the amendments, I would request that  
9 the Board to consider approval of that, as a guideline.

10           And lastly is, Table 5 that itemized the estimated  
11 reimbursement, is based on \$20,000 per levee mile. And I  
12 would ask that the Board would consider approving that.

13           In terms of guideline, I know counsel, he gave me  
14 a note. And he has proposed one change, which I will  
15 defer that to him and he can explain that better. And the  
16 and Board approval, if the Board decides, would reflect  
17 the change that counsel will mention.

18           LEGAL COUNSEL MORGAN: I only have one suggestion.  
19 That was to, on page 19 -- well, actually, in page doesn't  
20 reflect anything. I don't know if you have the same  
21 document that I was given.

22           I asked Mike to prepare a clean copy of the  
23 guidelines, DWR's proposed guidelines. But under  
24 carryover, the second paragraph, where article -- part  
25 three, article seven, where it talks about carryovers.

1 And the second paragraph begins, "The district will be  
2 allowed to carry forward unreimbursed eligible  
3 expenditures."

4 And then it goes on to describe the procedure for  
5 reimbursement. It's -- this is a year-to-year program.  
6 The legislature does not specifically authorize funds for  
7 future expenditure, in future years, of current or past  
8 years. And to clarify that, I suggested language that  
9 would be inserted after the first sentence -- would make a  
10 continuation of the first sentence. Just put a comma, and  
11 then put, "and may be reimbursed if funds for this purpose  
12 are specifically appropriated by the legislature," to make  
13 it clear that we are not stepping over the bounds of what  
14 the legislature has authorized. So we can still go  
15 forward with this reimbursement from the carryover program  
16 and reimburse them as carryovers, if funds are appropriate  
17 for that purpose.

18 SECRETARY DOHERTY: I have a question for you too.  
19 If we are not -- if we can't act before we have our  
20 studies completed -- what ever happened to the Delta  
21 Vision, the Delta Dream. It was a dream study that was  
22 being done so we would know which islands were good, which  
23 islands could be sacrificed. Has that study been  
24 completed?

25 MR. MIRMAZAHERI: Delta Risk Management Strategy,

1 DRMS, known as "Dreams," it has not been finalized yet.  
2 Phase 1 report is being released at this time. I know, we  
3 were waiting for authorization from the governor's office  
4 to release. And my understanding is that that  
5 authorization has come, and DWR executives are making the  
6 final decision to release that.

7 But Phase 1 has not -- is being released and the  
8 plan is to go into Phase 2, and then it's going to take  
9 some time before they come to any final recommendation.  
10 But it is going on now as we speak as well.

11 As far as Delta Visions, that's the glue of the  
12 task force. And they too are considering some measures in  
13 the delta, but nothing has been finalized at this time.

14 And eventually, depending on what the outcome of  
15 those, you know, the Dreams and Delta Vision be, in the  
16 future, it may or may not impact our program.

17 SECRETARY DOHERTY: So when do they think this  
18 study -- what's the date that it should be completed?

19 MR. MIRMAZAHARI: For Dreams?

20 SECRETARY DOHERTY: Yes.

21 MR. MIRMAZAHARI: I am the wrong person to ask  
22 that question, because I'm not working on Dreams. As I  
23 said, you know, as I understand it, Phase 1 study is being  
24 released. And it will be open for public discussion and  
25 public comment. And it's going to have to go through the

1 process of public review before they come up with any  
2 final recommendations.

3 SECRETARY DOHERTY: Mr. Punia, do you know when it  
4 will be completed?

5 GENERAL MANAGER PUNIA: No, I don't have the  
6 schedule. But we can check with Dave Mraz and let you  
7 know about the Dream. And the Delta Vision, my perception  
8 is, it will be out by December, the Delta Vision Report.

9 SECRETARY DOHERTY: Because here, we asked this  
10 morning about a project. No, we can't do anything about  
11 it because we don't have a study completed. Well, here,  
12 we've got a study going on but we're going to allocate  
13 money for levees.

14 GENERAL MANAGER PUNIA: But this is slightly  
15 different situation, Board Member Lady Bug. This is  
16 ongoing maintenance activities, which we are continuing  
17 for several years and the proposal is to continue these  
18 studies. And if these reports will show something else,  
19 then we have to revisit these guidelines of this program.

20 SECRETARY DOHERTY: Okay. Just curious.

21 MEMBER SUAREZ: I have a question. Just remind me  
22 where the funding comes from. Is it a general fund?

23 MR. MIRMAZAHARI: The funding for this fiscal year  
24 is mainly from Proposition 84.

25 MEMBER SUAREZ: So any type of Prop 84



1 requirements?

2 MR. MIRMAZAHERI: There are.

3 MEMBER SUAREZ: They are spelled out and included  
4 in this revision?

5 MR. MIRMAZAHERI: Not in the revision. As I said,  
6 the procedures are basically ones that we've had that  
7 didn't make a change. But when we do the work agreement,  
8 provide the work agreement, all the requirements are  
9 spelled out in there, including requirements of the  
10 Proposition 84. Every time a source of funding -- because  
11 it changes, you know, year by year, at least it has been.  
12 Then each source of funding has a different set of  
13 requirements, and you put those specifics [sic] in the  
14 work agreement.

15 MEMBER SUAREZ: So have we -- whatever action we  
16 take then, we can be assured that whatever Prop 84  
17 requirements are going to be incorporated?

18 MR. MIRMAZAHERI: Absolutely. Absolutely.

19 MEMBER RIE: If I could add to that, Proposition  
20 84 provides money for the Delta Levee Subvention Program,  
21 I think for eight or nine years. It's a secure source of  
22 funding. And previously, we had \$6 million, I think, in  
23 prior years' budgets for delta levee subventions. And  
24 this year, we're getting over \$25 million. And most of  
25 that money is coming from Proposition 84, which was

1 approved by the governor. And we are very thankful that  
2 we have a governor who's very supportive of the delta and  
3 delta levee subventions, because it is important.

4 And to answer your question, Lady Bug, this money  
5 is for reclamation districts who are currently maintaining  
6 levees, who have an ongoing maintenance program. And  
7 these programs are for private levees. So whatever the  
8 Delta Vision is, there's going to be quite a bit of time  
9 to make any sort of transition from the ongoing  
10 maintenance programs.

11 SECRETARY DOHERTY: Good. Okay.

12 MEMBER RIE: So I think this program will be  
13 ongoing for at least eight or nine more years to fund the  
14 private levee work.

15 MR. MIRMAZAHERI: Just a quick comment on source  
16 of funding, Proposition 84. As you recall, last November,  
17 two propositions were passed: 84 and 1E. 84 has a  
18 five-year life; and then, 1E, ten years.

19 So our anticipation is that once the 84 money is  
20 exhausted, within the first five years, by then, 1E will  
21 kick in and delta will get a share as well.

22 MEMBER SUAREZ: If I could clarify then,  
23 Mr. Morgan? Is that your concern, because the 84 dollars  
24 aren't continuing the appropriations.

25 LEGAL COUNSEL MORGAN: Well, the Delta Levee

1 Subvention Program, as spelled out in the Water Code, is a  
2 year-to-year program. And so there's no provision in law  
3 for the Delta Levee Subvention Program to provide funds --  
4 to pay back in arrears for expenditures for one year in  
5 future arrears unless the legislature were to specifically  
6 authorize that.

7 Now, 84 doesn't, I don't think, have any specific  
8 language regarding that. It just makes money available.  
9 But it makes money available to the Delta Levee  
10 Subvention, which does spell out how it's going to be  
11 spent, year to year. So there's no problem, in my mind,  
12 of having those procedures in there so long as the  
13 legislature has said, "And these may be used for past  
14 expenditure."

15 MEMBER RIE: If I could add one more thing. I  
16 would like to thank Dave Lawson out there and Mike  
17 Mirmazaheri and Dave Mraz for all the hard work they have  
18 done on this. They have done a lot of coordination with  
19 all the reclamation districts throughout the state and got  
20 a lot of good input with regards to maintenance costs.  
21 And I think it's pretty much unanimous from all the  
22 reclamation districts that the increase from 15,000 per  
23 mile to 20,000 per mile for levee maintenance is truly  
24 needed.

25 We haven't had an increase in the cap in 12 years.

1 So we do need this increase to catch up with inflation,  
2 and there's more stringent requirements on the reclamation  
3 districts. They now have to use prevailing wages for  
4 their labor, which also increases the cost. And I'm not  
5 sure if that was a provision of one of the propositions or  
6 not. But we do have to take that into consideration.

7 So thank you.

8 MR. MIRMAZAHERI: Thank you.

9 PRESIDENT CARTER: Any other questions for  
10 Mr. Mirmazaheri?

11 VICE PRESIDENT HODGKINS: I have just one  
12 question: Guidelines. Are these regulations?

13 LEGAL COUNSEL MORGAN: Why do you want to know?

14 (Laughter.)

15 VICE PRESIDENT HODGKINS: I'm trying to understand  
16 the world we work in.

17 LEGAL COUNSEL MORGAN: I know why you want to  
18 know. These would look on their face to be underground  
19 regulations, but they're not. But the Water Code  
20 specifically directs the Board to do this on an annual  
21 basis, based on temporary considerations. So the  
22 Department develops these guidelines and then the Board  
23 adopts them. And as I -- when I read the Water Code, it  
24 appears to be something that the legislature specifically  
25 wants to be done in this fashion, on an annual basis, as

1   opposed to adopting a set of guidelines and then just by  
2   Title 23 leaving them there.

3               So the idea is to take into consideration a change  
4   of circumstances and be flexible.

5               MEMBER RIE:   And we are approving the guidelines  
6   on a yearly basis as well.

7               PRESIDENT CARTER:   Any other questions for  
8   Mr. Mirmazaheri?

9               I just have one.   With regard to the Table 5,  
10   obviously, the costs exceed what the available funds and  
11   whatnot.   In your work agreements with the reclamation  
12   districts, the local maintaining agency, do you work with  
13   them in terms of setting priorities of how those dollars  
14   will be spent within their jurisdiction?

15              MR. MIRMAZAHERI:   They basically follow the  
16   procedures:   Maintenance comes first; priority one next;  
17   and then priority two and priority three.   And based on  
18   that, if the local district wants to spend money on  
19   priority three, for instance, you know, they can do that.  
20   But the chances are, they are not going to get  
21   reimbursement from the state, because we reimburse  
22   maintenance before we get to the priority one, two, or  
23   three.

24              PRESIDENT CARTER:   So the application amount is  
25   the total amount for maintenance, priority one, and

1 priority two and, priority three?

2 MR. MIRMAZAHERI: That's correct. That's correct.

3 PRESIDENT CARTER: Okay. I understand.

4 MEMBER RIE: And the reclamation districts, they  
5 can submit an application for anything they want. For  
6 example, they can submit an application for \$2 million.  
7 And we may choose, through going through the Board's  
8 procedures and policies, that we can only allocate  
9 \$10,000. So we're following the guidelines that the Board  
10 approves. And Mike's group will go through those  
11 applications and categorize each application into  
12 different priorities.

13 PRESIDENT CARTER: One member of the public wanted  
14 to comment on this. Thank you, Mr. Mirmazaheri. Stand  
15 by.

16 MR. MIRMAZAHERI: Thank you. I look forward to  
17 working with the Board.

18 PRESIDENT CARTER: Mr. Darsie?

19 MR. DARSIE: Thank you, President Carter and the  
20 Board.

21 My name is Bill Darsie. I wear several different  
22 hats. I'm a third generation delta farmer, former trustee  
23 on two districts, vice president of the Central Valley  
24 Flood Control Association. And currently, I work for  
25 Kjeldsen, Sinnock & Neudeck in Stockton, representing

1 about 25 districts.

2           You know, I will reiterate what Teri Rie said. We  
3 fully support Mike's recommendations in terms of the --  
4 all the changes in the guidelines. And also, you know, a  
5 vote of support for Mike and the staff; they do an  
6 incredible job on this. It's an incredibly efficient  
7 program. Always has been for the 30 years I've been  
8 involved with it. More bang for your buck out of this  
9 program than anything else that's ever come out of this  
10 program, as a result of working together.

11           One comment regarding Mr. Morgan's comment about  
12 priority funding. That came about for several years -- or  
13 many times during the life of this program, we would get  
14 zero funding, you know, through various legislative  
15 operations for a year, and then they would fund it in one  
16 big chunk. And then we would kind of backfund the work.  
17 And that's somewhat where that came from. Now, staff can  
18 correct me if I'm wrong. That was the vehicle to kind of  
19 keep us alive where we wouldn't get funding for two or  
20 three years. And now it's coming in, and we would back  
21 fund using that. Now, I suspect that when that money  
22 became available through legislation or AB 360 or 1065 or  
23 some of those that the legislation made, have enabled it  
24 to do that. But the guidelines have always had some  
25 flexibility to do that, so the district is going to

1 continue work and get funding of it.

2 LEGAL COUNSEL MORGAN: Unfortunately, the law that  
3 creates the program does not. So I don't want the Board  
4 to adopt or approve guidelines that seem to expend what  
5 authority the legislature has given to the Department and  
6 the Board with regard to state funds.

7 MR. DARSIE: And I'm not objecting to the change,  
8 just kind of giving some history to the Board.

9 LEGAL COUNSEL MORGAN: Right. And the carryover  
10 provisions remain in the guidelines. And now what has to  
11 happen, is to get that money earmarked for that purpose.

12 MR. DARSIE: Okay. Any questions?

13 PRESIDENT CARTER: Any questions for Mr. Darsie?

14 Thank you very much.

15 Mr. Punia?

16 GENERAL MANAGER PUNIA: I wanted to make the  
17 comment -- Jay Punia, General Manager. I know this team  
18 who worked on this program -- I think taxpayers may have  
19 included part of their money on this program. And I guess  
20 you can expand this program to the rest of the state. We  
21 can improve the levee maintenance on the levees.

22 PRESIDENT CARTER: So any further discussion?

23 We'll entertain a motion on Item 10 to consider  
24 approval of changes to the Delta Levee Subventions  
25 guidelines and request --



1 MEMBER SUAREZ: I move.

2 PRESIDENT CARTER: Yes.

3 You move?

4 MEMBER SUAREZ: Yes.

5 PRESIDENT CARTER: We have a motion.

6 MEMBER RIE: And I will second that. And just to  
7 clarify, we are approving Table 5.

8 PRESIDENT CARTER: Okay. Is that included in your  
9 motion?

10 MEMBER SUAREZ: Sure.

11 PRESIDENT CARTER: And does your motion also  
12 include the proposed language change to Article 7,  
13 carryover, that Mr. Morgan proposed?

14 MEMBER SUAREZ: I always listen to my lawyer.

15 (Laughter.)

16 PRESIDENT CARTER: Very good.

17 LEGAL COUNSEL MORGAN: That's one.

18 (Laughter.)

19 PRESIDENT CARTER: He's smiling.

20 So we have a motion.

21 Do we have a second?

22 MEMBER RIE: Second.

23 PRESIDENT CARTER: To approve the changes to the  
24 Delta Levee Subventions guidelines and requested  
25 reimbursement amounts to adopt -- and that includes

1 approval of Table 5 and the language to the subventions  
2 guidelines as amended by the Counsel Morgan, on page 19,  
3 regarding Article 7, carryover.

4 Everybody clear on what we're doing?

5 Any discussion?

6 All those in favor, indicate by saying "aye."

7 (Ayes.)

8 PRESIDENT CARTER: And opposed?

9 The motion carries unanimously.

10 Thank you very much, Mr. Mirmazaheri.

11 MR. MIRMAZAHERI: Thank you very much.

12 PRESIDENT CARTER: Have a good afternoon.

13 MEMBER RIE: And sorry you had to wait so long.

14 SECRETARY DOHERTY: But he got to go before

15 Mr. Fong.

16 PRESIDENT CARTER: Very good.

17 Now we're on to Item 11, modifications to the  
18 levee at Wadsworth Canal, Sutter County.

19 Mr. McGrath, good afternoon.

20 MR. MCGRATH: Good afternoon, President Carter,  
21 Reclamation Board.

22 My name is Eric McGrath with Department of Water  
23 Resources, Division of Flood Management.

24 MEMBER SUAREZ: I'm sorry. We can't hear you very  
25 well.

1 MR. McGRATH: I'm just trying to keep my P's at a  
2 minimum.

3 (Thereupon an overhead presentation was  
4 presented as follows.)

5 MR. McGRATH: I'm here today to ask for the  
6 Board's formal approval of Resolution 07-05.

7 --o0o--

8 MR. McGRATH: This project is located on the  
9 eastern levee of the Wardsworth Canal in Sutter County.  
10 Overflow from the southeast of the Sutter Buttes is picked  
11 up through interceptor canals and travels down the  
12 Wadsworth Canal into the Sutter Bypass. The Wadsworth  
13 Canal and Sutter Bypass are part of the Sacramento River  
14 Flood Control System.

15 As you may recall, some of the information I am  
16 giving you here today was discussed about two months ago,  
17 in the July Rec Board meeting, by Keith Swanson and  
18 Loretta Dean, who's the property owner out there.

19 --o0o--

20 MR. McGRATH: To give you a little bit of history  
21 of the site, the property surrounding this portion of the  
22 canal and the bypass is owned by the Dean family and has  
23 been since about the 1860s. It was bisected and separated  
24 into three projects when the project was originally  
25 constructed around 1917.

1           The Corps raised the levees in the 1940s, and a  
2   toe drain ditch that was originally part of the levee  
3   section was buried during the construction due to concerns  
4   that the higher water levels, the canal would now carry,  
5   would cause piping failures due to underseepage forces.

6           Since then, the land adjacent to the east  
7   Wadsworth Levee becomes saturated whenever water levels  
8   rise within the canal and ponds on deep property due to  
9   the underseepage.

10                               --o0o--

11           MR. McGRATH: As a result of flooding in 1997, a  
12   project was initiated to address the seepage issues. The  
13   seepage berm was the alternative to alleviate the seepage  
14   concerns. The project was to be funded as part of a 1997  
15   PL 84-99 cost share program. A project corporation  
16   agreement, PCA, was executed in 2000 to address the  
17   underseepage among the project, described within the PCA.

18           As shown in this sketch, a seepage berm -- a  
19   significant portion of the land is required to construct  
20   this method of repair.

21                               --o0o--

22           MR. McGRATH: And due to local opposition, and  
23   other historic information that was provided by the  
24   property owner, the site was reevaluated by the Corps of  
25   Engineers but waived additional geotechnical studies in

1 2002. The Corps decided that a slurry wall was a better  
2 solution due to having a smaller footprint and more  
3 reliable seepage control.

4 DWR and Reclamation Board agree with this  
5 assessment.

6 --o0o--

7 MR. McGRATH: This slide just shows a few of the  
8 construction photos of the slurry wall, just giving an  
9 example of how small of a footprint is required to do this  
10 type of work and can be basically done on top of the  
11 levee. And currently, it does not affect the adjacent  
12 properties.

13 --o0o--

14 MR. McGRATH: This slide here shows the project  
15 limits. On the left corner is the Sutter Bypass, and the  
16 project goes along the left levee at Wadsworth Canal for a  
17 distance of 3,000 feet.

18 --o0o--

19 MR. McGRATH: Due to the change in the design, the  
20 schedule was extended and the costs have increased. This  
21 made the original project cooperation agreement no longer  
22 valid since the costs and timelines have been exceeded.

23 The corps sent DWR a schedule and cost change  
24 question dated August 9, 2007. The amended project  
25 cooperation agreement has been drafted by DWR based on

1    this request.

2                               --o0o--

3               MR. McGRATH:  This table shows the cost change of  
4    this project due to the change in the design and the  
5    delayed schedule, and shows the overall changes in costs  
6    from the federal and nonfederal sides.  The nonfederal  
7    share is 25 percent of the overall cost.

8                               --o0o--

9               MR. McGRATH:  So at this time, I would like to ask  
10   the Reclamation Board to adopt Resolution 07-05, as  
11   states, "Now therefore, be it resolved that the  
12   Reclamation Board delegates the general manager and its  
13   authority to complete negotiation of and sign the amended  
14   project cooperation agreement and schedule and cost change  
15   request with the U.S. Army Corps of Engineers for the cost  
16   share PL 84-99 program."

17              Thank you for your attention.  If you have any  
18   questions, I'd be happy to answer them.

19              SECRETARY DOHERTY:  Perhaps I'm misinformed.  But  
20   there was a gentleman working out there last week.  And he  
21   said he didn't know, until they had the results of the  
22   drilling and the monitoring wells, whether or not a slurry  
23   wall would go in there.

24              MR. McGRATH:  That's a different site.  That is on  
25   the Sutter Bypass east levee.  That's an investigation

1 we're currently doing for that segment.

2 This is for the Wadsworth Canal. And I don't  
3 think he's aware of this project on that section of the  
4 levee.

5 SECRETARY DOHERTY: So does the Wadsworth come in  
6 right there?

7 MR. McGRATH: The Wadsworth ties in just north of  
8 where they were going.

9 SECRETARY DOHERTY: I see. All right. I thought,  
10 why would we give you a permit if you weren't going to put  
11 the slurry wall in.

12 MR. McGRATH: This was drilled back in 2002, when  
13 additional studies were done. I don't know if you recall  
14 Loretta Dean talking about all the people out there, you  
15 know, drilling and putting steel in the ground, so that's  
16 what that was for.

17 SECRETARY DOHERTY: But boy, the cost of this  
18 project doubled in that amount of time. That's  
19 astronomical.

20 MR. McGRATH: It's a totally different design than  
21 it was originally, because it was originally a seepage  
22 berm and now it's a slurry wall. And slurry walls are  
23 significant more costly.

24 PRESIDENT CARTER: How deep is the slurry wall?

25 MR. McGRATH: It ranges from 40 to 60 feet.

1           PRESIDENT CARTER: 40 to 60.

2           MR. McGRATH: Yes.

3           VICE PRESIDENT HODGKINS: Could I get you to go  
4 back to your cost table?

5           Now, a seepage berm here had a total estimated  
6 cost of 8 million? 7.9?

7           MR. McGRATH: Yes.

8           VICE PRESIDENT HODGKINS: But that was not  
9 acceptable to the local landowners; is that correct?

10          MR. McGRATH: Correct.

11          VICE PRESIDENT HODGKINS: And even though it's  
12 cheaper, did this cost reflect the cost of the land that's  
13 required for the seepage berm?

14          MR. McGRATH: I believe that was the overall  
15 project cost, yes.

16          VICE PRESIDENT HODGKINS: So now we're  
17 constructing a slurry wall. Some of this may be due to  
18 just general escalation of price over time. But in  
19 essence, we're constructing a project that costs  
20 \$14 million, an increase of 7 million.

21          And it was done -- the increased cost here is to  
22 preserve the agricultural land that would have otherwise  
23 been lost to a seepage berm. Am I correct?

24          MR. McGRATH: That is partially the reason for the  
25 design change. The other reason is, after additional



1 geotechnical studies were conducted, the slurry wall was a  
2 better alternative, as it would do a much better job at  
3 controlling the seepage. A seepage berm would have to  
4 extend out for several hundred feet, once they found out  
5 where these sand layers were located, and realized it  
6 wasn't as cost effective as they originally thought.

7 VICE PRESIDENT HODGKINS: Okay.

8 But I think part of this was done because -- in an  
9 effort to preserve and potentially prevent the loss of a  
10 lot of land to agriculture. And time will tell us whether  
11 the seepage berm or the slurry wall is really the better  
12 approach. I am not crazy about slurry walls because I  
13 have not seen one study in this state where after a slurry  
14 wall was constructed, somebody has gone, back during the  
15 high water, and measured the landside water levels during  
16 high water, in the levee, to see if the slurry walls  
17 performs as anticipated.

18 And I will tell you that when the short ones were  
19 done, before we made sure we ran them all the way down to  
20 an impervious layer, the results that were in showed that  
21 they did not perform as they were expected. And actually,  
22 at the levee conference, I talked to a person from the  
23 Corps and I intended to follow up and haven't yet -- up in  
24 Seattle -- where they are redoing slurry walls because the  
25 first time they didn't accomplish their design objectives.

1           So once again, nobody knows for sure if slurry  
2 walls work the way we think they work.

3           PRESIDENT CARTER: Any other questions for  
4 Mr. McGrath?

5           Okay. I have no public comment on this.

6           So we will entertain a motion to consider approval  
7 of Resolution No. 07-05, which requests the delegation of  
8 the authority to sign the amended PCA, schedule and cost  
9 change report with U.S. Army Corps of Engineers for the  
10 cost share PL 84-99 program to be given to the general  
11 manager of the Reclamation Board.

12          VICE PRESIDENT HODGKINS: So moved.

13          PRESIDENT CARTER: We have a motion.

14          Is there a second?

15          MEMBER RIE: Second.

16          PRESIDENT CARTER: Second.

17          Any discussion?

18          All those in favor, indicate by saying "aye."

19          (Ayes.)

20          PRESIDENT CARTER: And opposed?

21          Motion carries unanimously.

22          Thank you very much.

23          MR. McGRATH: Thank you very much, Reclamation  
24 Board.

25          PRESIDENT CARTER: Okay. We are on to Item 12,

1    which as you recall was changed from an action item to an  
2    informational briefing, Proposed Title 23 Regulatory  
3    Changes.

4               Ms. Finch?

5               LEGAL COUNSEL FINCH:   Good afternoon, President  
6    Carter and members of the Board.   As you -- well, you  
7    mentioned it's been transferred to an informational item.  
8    And as you recall, last July, I presented an item  
9    regarding the need to look at our regulations and see if  
10   we needed to change some of the regulations.   And I know,  
11   Emma, you are hearing this for the first time, so I will  
12   give a little background for you and everyone.   And that  
13   was spurred in response to the court decision in NRDC  
14   versus the Rec Board, where the Court ruled that we have  
15   complied with CEQA, but that the Court expressed concern  
16   over our interpretation of our own regulations.

17              This microphone is loud today, isn't it?

18              PRESIDENT CARTER:   No, it's not.

19              LEGAL COUNSEL FINCH:   Oh, it's not?

20              And the interpretation that we had of our own  
21   regulations that the Court had some different  
22   interpretation of was the portions where we allowed a  
23   partial easement over some levees and we allowed structure  
24   on certain types of levees.   And so this ruling showed  
25   that our regulations, as written, were open to different

1   interpretations, and so we wanted to revisit our  
2   regulations and see if we could make some changes.

3           And so in July, after our discussion, the Board  
4   directed us to work on drafting regulations, specifically  
5   focusing on the sections relating to the toe of the levee,  
6   easements, and structures on the levees.

7           And so I'm here to give a requested progress  
8   report on what we're doing with this right now. And  
9   engineering and legal staff have been working together,  
10   reviewing our regulations. And I do want to caveat that  
11   this is tentative draft language; it's not final language.  
12   It could change again and not necessarily look the same as  
13   it does today. But it will give you an idea of where we  
14   are at the moment. And there's still work to be done, as  
15   you will see, before it's ready to have anything filed  
16   with Office of Administrative Law.

17                           --o0o--

18           LEGAL COUNSEL FINCH: So I will bring up the  
19   draft. The three areas that we looked at was with the toe  
20   of the levee, easements, and structure of the levees.

21                           --o0o--

22           LEGAL COUNSEL FINCH: And so regarding toe of the  
23   levee, we concluded that there were four sections that  
24   needed to either be addressed or added regarding this.  
25   And one was the definition of berm, the definition of

1 levee section, levee toe, and project works.

2 And that's to help clarify the Board's interest in  
3 any levee to protect the federal flood control works.

4 MEMBER SUAREZ: Nancy, if I could just clarify.  
5 The slide presentation we're looking at, even though it  
6 doesn't say "draft" anywhere, it is a draft. None of this  
7 has been circulated or discussed? It's your internal  
8 working document?

9 LEGAL COUNSEL FINCH: Exactly. And thank you for  
10 that.

11 And like I said, I'm before the Board at the  
12 request of the Board, that you all want to see where we  
13 are, and this is draft language.

14 --o0o--

15 LEGAL COUNSEL FINCH: So the following is the  
16 current definition of "berm." And it's, "The strip of  
17 ground between the waterward levee toe and the top of the  
18 bank of the low water channel."

19 And the proposed changes to this, one is that we  
20 realized there was no definition of "landside berm" in our  
21 regulation. So we wanted to add a definition of "landside  
22 berm."

23 And -- but on the "waterside berm" portion, we  
24 would add the word "waterside," so it was clear it was  
25 only regarding the waterside; and add the words it's "an

1 elevated strip of ground generally oriented parallel to  
2 the levee and located between the waterward levee toe,"  
3 and the language stays the same.

4 And that was an engineering concern of the channel  
5 of the river and the levee and ways in which, without the  
6 language "elevated strip," how that could be interpreted  
7 of what a berm looks like.

8 So that language -- it was thought that would  
9 clarify that concern, that staff had.

10 And then for "landside berm," landside berm means  
11 "an elevated strip of ground or fill generally oriented  
12 parallel to the levee either in direct contact with the  
13 levee or offset from the levee including, but not limited  
14 to, natural berms, seepage berms, buttress berms, and  
15 stability berms."

16 And that was language proposed by the engineering  
17 staff to address the different type of berms that we now  
18 have on the land side of levees. And so when we are  
19 discussing a landside berm, applicants and the public will  
20 know what we're talking about.

21 PRESIDENT CARTER: Ms. Finch?

22 With regard to the berms, if the levee is -- if  
23 there's an existing levee and a berm is constructed, such  
24 as a seepage berm or whatnot, does the toe of the levee  
25 change, i.e. the original toe of the levee would be below

1 the new seepage berm or new berm? Does that mean that the  
2 toe of the levee then becomes the toe -- the visible toe?

3 LEGAL COUNSEL FINCH: With the draft  
4 regulations -- and I will get to the definition of  
5 "toe" -- hopefully we've addressed that, that if it's not  
6 clear where the toe is, then the Board can define the toe  
7 of the levee.

8 But I will get to that.

9 PRESIDENT CARTER: I'm sorry. I was ahead of you.

10 LEGAL COUNSEL FINCH: No. That's fine.

11 --o0o--

12 LEGAL COUNSEL FINCH: And "levee section"  
13 currently -- and these are in alphabetical order -- means  
14 "the physical levee structure from the landward toe to the  
15 waterward toe." And that's the current levee section  
16 definition.

17 --o0o--

18 LEGAL COUNSEL FINCH: And this would add to the  
19 final levee section that "when fill or flood control  
20 devices are placed into, onto, or adjacent to a levee  
21 under the Board's jurisdiction, the levee section will not  
22 be enlarged unless the Board determines an enlarged levee  
23 section is required for the integrity, functioning, or  
24 maintenance of the levees under the Board's jurisdiction."

25 And so that's part of this whole package that

1 allows us to define what our levee section is. And when  
2 fill or flood control devices are added to it, it gives  
3 the Board the regulatory authority to say, "This is our  
4 jurisdiction, that we determined we need more, we need the  
5 same."

6 --o0o--

7 LEGAL COUNSEL FINCH: And now moving on to levee  
8 toe, currently "levee toe" is defined as "the point of  
9 intersection of the levee slope with natural ground."

10 --o0o--

11 LEGAL COUNSEL FINCH: And the proposed additional  
12 language is, once again, putting landside levee toe and  
13 waterside levee toe. So "landside levee toe," additional  
14 language would be, "When there's no clearly identifiable  
15 point of intersection, the Board shall determine the  
16 location of the levee toe."

17 And this is to address your question and give the  
18 Board the regulatory authority to go and say, "This is  
19 where our regulatory toe is."

20 And regarding the waterside levee toe, staff has  
21 not drafted language. We've been discussing it. But no  
22 draft language has come forth at this point.

23 --o0o--

24 LEGAL COUNSEL FINCH: And the last section that we  
25 looked at was "project works." And this is to complete



1 the package, because there's levees and there's project  
2 works. And I'm not going to read this whole section,  
3 because it's a bit lengthy. But it is project works other  
4 than the levees themselves, basically.

5 --o0o--

6 LEGAL COUNSEL FINCH: And we would add language as  
7 consistent with previous language, that "when an  
8 encroachment or placement of fill into, onto, or adjacent  
9 to project works renders the physical limits of the  
10 project works unclear, the physical limits of the project  
11 works will be determined by the Board."

12 And it's the same thing, to give the authority and  
13 the flexibility to the Board and staff, to tell an  
14 applicant and the public, this is what we are regulating.  
15 And we don't need to regulate after a certain point if it  
16 doesn't affect our flood control works, the federal flood  
17 control works.

18 --o0o--

19 LEGAL COUNSEL FINCH: And the next language we've  
20 reviewed is regarding easements. And so our standard  
21 easement language, it's the easements we ask for  
22 applicants is across the works and the 10-foot easement  
23 that you all are aware of.

24 --o0o--

25 LEGAL COUNSEL FINCH: And the additional language

1 would be, "The Board may require a larger easement over  
2 any property when the Board determines circumstances  
3 warrant it. The Board may determine the type or types and  
4 the extent of any easement it requires over any property."

5 And the "types or type" language is reflective of  
6 the River Islands situation, where we needed an excavation  
7 easement. There are other types of easements that the  
8 Board may need. And this -- this clearly states that we  
9 may ask for a variety of easements.

10 And that -- that it's required over any property  
11 means that the Board can ask, in a permit, for the  
12 applicant to acquire, to somehow attain, easement over  
13 other people's property or other entities' property. So  
14 it's not just the applicant's property.

15 MEMBER RIE: Nancy?

16 I was wondering if we could add additional  
17 language that would clarify that, that it has to be  
18 related to flood control purposes and that, you know -- I  
19 wouldn't want that to be interpreted that we could ask for  
20 an extra 200 feet of easement, you know, just because we  
21 wanted it. It seems like it needs to be justified.

22 LEGAL COUNSEL FINCH: Right. And this is keeping  
23 it in mind. This is the first shot at regulations; they  
24 aren't complete. And we haven't finished our internal  
25 vetting, and we will look at that. And then there's the

1 OAL process, where the public can comment. So I'm sure  
2 those kind of comments will come up.

3 But this language is pretty raw at this point, and  
4 it is drafted and proposed -- not even proposed. It's  
5 just draft.

6 MEMBER RIE: Okay. That's my suggestion.

7 LEGAL COUNSEL FINCH: Okay. Thank you. We have  
8 been grappling with this one, to give us enough authority  
9 but not granting -- giving too much.

10 --o0o--

11 LEGAL COUNSEL FINCH: And the last one is  
12 structures on levees. And currently, as you see, we have  
13 no specific language. We've talked about adding  
14 definitions to the regulations, including one for  
15 structure. There's no definition in the regulations for  
16 "structure," "habitable structures," and "non-habitable  
17 structures."

18 And this is in response to the NRDC decision. But  
19 also, there was a lawsuit, a while back, called Captain's  
20 Table, before most of our time. And the Rec Board did  
21 prevail in that lawsuit as well.

22 But the issue of structure, habitable structure,  
23 came up. And the staff thought that as long as we're  
24 addressing structures on levees, let's incorporate some  
25 ambiguities that came up in that lawsuit as well,

1 especially since Steve Bradley was part of the Board staff  
2 at that time, and he has memories of the issues. And so  
3 we're combining those too.

4 And that's it. The next is the -- do you have any  
5 questions?

6 --o0o--

7 LEGAL COUNSEL FINCH: The next step. And that is,  
8 we're going to continue working on these regulations.  
9 We're meeting on a weekly basis, on Friday. So when  
10 there's a Rec Board meeting we can't meet. And one thing  
11 we've noted is, as we spend more time with the  
12 regulations, we see other changes that are a good idea to  
13 change.

14 And so what we would like to do is work on those  
15 specific regulations and bring them to the Board, and do  
16 the process, get them going at the Office of  
17 Administrative Law, and then continue our working group of  
18 addressing other regulations. So we update our  
19 regulations.

20 PRESIDENT CARTER: Any questions for Ms. Finch?

21 MEMBER RIE: I just wanted to comment that we  
22 really appreciate your efforts. I know it's probably a  
23 lot of work, taking all this together. But it seems like  
24 it's happening very fast, which is impressive.

25 So thank you.

1           LEGAL COUNSEL FINCH: Thank you.

2           MEMBER SUAREZ: I have a question and a comment.  
3   Going back to the Section 4(r), levee -- the next section.  
4   I gather, this is not part of the definition you are  
5   working; right?

6           LEGAL COUNSEL FINCH: Right. It's 4(r). And if  
7   you have a copy of the regulations in front of you, it may  
8   be confusing, because we relettered the definitions.

9           MEMBER SUAREZ: Well, my only comment or question  
10   would be, or something for you to consider -- and I don't  
11   expect you to have an answer -- is whether the added  
12   language, what is the appropriate location of it is in the  
13   definitions section. Because it seems to be more of a  
14   policy kind of a guidance versus just clarifying what a  
15   term means.

16           LEGAL COUNSEL FINCH: And we have discussed that.  
17   And part of the problem is, when applicants look at our  
18   regulations, they look to the definitions. And when does  
19   a -- the question is when does a definition end and when  
20   does regulatory language start? That appropriately is in  
21   a different section. And that is one of the issues we're  
22   grappling with. So it may end up, we move it. But at the  
23   same time, when applicants pick up our regulations, they  
24   tend to focus on the definitions.

25           So I appreciate that comment.

1           MEMBER SUAREZ: And then to follow up with  
2   Ms. Rie's point regarding the easements, one concern or  
3   something that I would have in mind is, when we brought in  
4   a design for flood control purposes, are we including  
5   mitigation for habitat? Those are the types of issues  
6   that I think we would want to have an opportunity to  
7   really think through, because we might not want to be  
8   going that far, or we might. What does for the purposes  
9   of flood control include?

10          LEGAL COUNSEL FINCH: Yeah, and at this point, we  
11   have not considered the habitat restoration issues.

12          MEMBER SUAREZ: And I just wanted to offer, if  
13   staff wants any involvement of a Board member, I would be  
14   happy to sit through or participate in whatever internal  
15   discussions you are having. I would be helpful to you.

16          LEGAL COUNSEL FINCH: Thank you.

17          PRESIDENT CARTER: Very good. Any other  
18   questions?

19          VICE PRESIDENT HODGKINS: I thought, generally,  
20   those looked pretty good. And I too want to compliment  
21   you on the effort. And I think going through it this way  
22   is helpful in that there's not a lot of pressure and you  
23   get a chance to really look at what's written here.

24          So the process is a good process. I would note, I  
25   saw 10 feet up there as the landside toe easement. And,

1 you know, if you look at the veg policy -- and I'm not  
2 sure where else it is, they want 15. So those types of  
3 changes should be thought about, at least.

4 LEGAL COUNSEL FINCH: And we have discussed that  
5 as well. And we're -- I believe staff is happy to change  
6 it to 15.

7 MEMBER RIE: What is your schedule for coming back  
8 for the first step, to get it to the Office of --

9 LEGAL COUNSEL FINCH: -- Administrative Law?

10 MEMBER RIE: Administrative Law.

11 LEGAL COUNSEL FINCH: I hesitate to make any  
12 promises because I think I already made one about -- I  
13 said, "We'll be back in two months, and it will be done."

14 In part, it depends on the workload of the Board,  
15 issues that come up, if we can consistently meet on  
16 Fridays and get this done.

17 So I think now that we've established a meeting at  
18 the same time, on the same day, once a week, it will  
19 continue pushing us forward. And I'm hoping the same hope  
20 in a couple months, at least with this. But no promises.  
21 And if you would like, maybe two months, either an  
22 update -- I could come back with an update, if that  
23 would --

24 PRESIDENT CARTER: An update or better.

25 LEGAL COUNSEL FINCH: An update or better, yes.

1           MEMBER RIE: I think you have the right idea in  
2 terms of trying to focus on the task at hand rather than  
3 cleaning up the entire regulations. Because I think if  
4 you -- I know everybody wants to do that. But, you know,  
5 that's such a daunting task and that would probably take a  
6 very long time, I would guess.

7           PRESIDENT CARTER: I might call it a bottomless  
8 pit, actually. And that would be one of my comments, is  
9 that when you said that there are other things that we  
10 want to change and whatnot, I caution you to stay focused  
11 so that this doesn't become a ten-year project, that we do  
12 get something done in a timely fashion. I think that the  
13 work that you have done so far is great.

14           The only other question I have is with --  
15 obviously, there are some gaps here; there are some things  
16 to fill in. But what you have so far, does that  
17 essentially solve our issues with the judge's ruling?

18           LEGAL COUNSEL FINCH: At this stage, this is what  
19 we've come up with. I think further discussion and  
20 analysis may show that we can make additional changes.  
21 But it's a good step, and we're hoping that, you know, you  
22 don't know until there are regulations and something comes  
23 up in the future. We are trying to consider a variety of  
24 situations that we can address through these changes.

25           PRESIDENT CARTER: Would it be appropriate to



1 include graphics and -- in some of the regulations?

2           LEGAL COUNSEL FINCH: That's probably an  
3 engineering question. I know Teri brought that up last  
4 time, as well. My only concern personally -- and I'm not  
5 an engineer. But as a lawyer, with graphics is, this is  
6 to allow flexibility, where you can't see the toe. They  
7 are building a berm, and we have to look inside. We may  
8 need 10 feet, 15, 50. We may need a variety of regulatory  
9 requirements that we can't think of right now. And if we  
10 draw a sketch of something, people may think, that is all  
11 that's required.

12           So from a legal perspective, I think words are  
13 better suited for this purpose. But engineering staff may  
14 have a different perspective.

15           PRESIDENT CARTER: Okay.

16           Any other questions?

17           Anything that staff wants to add? Technical  
18 staff?

19           GENERAL MANAGER PUNIA: I'm going to attest that  
20 Nancy is working diligently on this, and we have a very  
21 lively discussion on this.

22           PRESIDENT CARTER: Excellent.

23           VICE PRESIDENT HODGKINS: I do sort of have a  
24 question for the Board members. I didn't get a chance to  
25 know whether the change to description of capital

1 structure would preclude a restaurant or not. But for  
2 instance, if it would have, I know there are a whole bunch  
3 of urban areas out there that are very interested in  
4 putting restaurants on the river. And this is a question  
5 I think for the Board as a whole.

6 We then, if we are going to make a change like  
7 that, want to be sure we know what the change was so they  
8 have a chance to comment on it in the process or leave  
9 them on their own, if you will, to cast the Office of  
10 Administrative Law publications and the changes and  
11 regulations. That's sort of just general -- I don't even  
12 know if I want an answer today.

13 But think about the fact that the regulations,  
14 while it's a very public process, there are so many things  
15 going on that you can do things that nobody is paying any  
16 attention to. And then you find out later that they are  
17 really upset.

18 PRESIDENT CARTER: Okay. Nothing else?

19 Thank you very much.

20 LEGAL COUNSEL FINCH: Thank you.

21 We'll move on to Item 13, Lower San Joaquin River  
22 Flood Control Project Operational Concerns.

23 Mr. Hill?

24 LEGAL COUNSEL MORGAN: Are we going to do 8?

25 PRESIDENT CARTER: I was holding off on 8 because

1 this is a timed item. So we'll do 8 after this particular  
2 item.

3 MR. HILL: Here we are again. Everybody should  
4 have an informational packet that I have brought for you  
5 to follow on this presentation.

6 (Thereupon an overhead presentation was  
7 presented as follows.)

8 MR. HILL: First of all, I would like to thank the  
9 Board members, President Carter, and General Manager Punia  
10 for the opportunity to speak to you about this.

11 We've had discussions on this many times, about  
12 trying to get some kind of clarity on the river  
13 restoration and the impacts to flood control operations.

14 So basically, the approach that I'm using today  
15 is, I'm talking with the Board members previously is just  
16 trying to get them an overview and some informational data  
17 so they can understand what the restoration is, and then  
18 we can move from that direction as far as looking at flood  
19 management issues.

20 Also, in your presentation packet, like I said,  
21 there's a lot of graphics involved in there. And I must  
22 give credit where credit is due. I borrowed those with  
23 permission from the Water Authority from Friant Dam, so  
24 they're are the ones that should get recognition for the  
25 color that's involved in this.

1           But anyway, that's one of the settling parties in  
2   the litigation and we've come -- established  
3   relationships. We're on constant contact to make sure  
4   that we all understand, we're all in the same direction,  
5   of what we need to understand and where we need to go.

6           So basically, like I said, this approach in the  
7   settlement is going to be addressed on flood management  
8   issues only. There's water management issues involved in  
9   that, that I'm not going to touch upon because it's not  
10  our concern. And I'm not an expert in that field.

11          So basically, like I said, there's too many other  
12  things to delve into in this amount of time. So  
13  basically, I'm just going to move in the direction of  
14  flood management issues.

15                               --o0o--

16          MR. HILL: Also in your packet, there's a general  
17  map which basically describes the location of where the  
18  river settlement of the restoration is going to occur.  
19  And basically, it's 150-mile stretch downstream from  
20  Friant Dam to the confluence of the Merced River.

21          On your map, you can see where it shows like --  
22  they have broken the 150-mile reach into five sections,  
23  basically, because there's different topography and  
24  different issues within each section that need to be  
25  addressed independently.

1           And like I said, the legend over, up, to the left  
2   kind of gives you a description on the limits of each  
3   reach and any physical structures. And like I said, it's  
4   color coded depending on each reach.

5           On the settlement agreement itself, I'm going to  
6   touch lightly upon that because it's a tremendous volume  
7   of paper. Basically, after about 18 years of litigation  
8   and the decision from the U.S. district court that water  
9   needed to be released from Friant Dam, to reestablish fish  
10   goals on the San Joaquin, the settling parties decided to  
11   put their heads together to figure out how to make this  
12   thing be implementable and to work for restoration goals.  
13   So basically, they also agreed that the goals they are  
14   going to do are two goals, which basically is to  
15   restore -- maintain fish population in a good condition on  
16   the San Joaquin; and from the water user side of it, a  
17   water management goal to reduce and avoid any adverse  
18   impacts to their water supply.

19                               --o0o--

20           MR. HILL: Like I said, I don't know if you are  
21   familiar with it or not, but I'm moving kind of quickly on  
22   that. Is the Board familiar with the settlement  
23   process -- the settlement itself? How it got to this  
24   point, as to how it was challenged and everything?

25           Okay.

1           PRESIDENT CARTER: I think so.

2           MR. HILL: I will leave it with that.

3           And basically the settling parties is basically  
4 the federal government, the Friant water users, and also  
5 the Natural Resources Defense Council, which included  
6 multiple environmental organizations in the suit, in 1988.

7                               --o0o--

8           MR. HILL: How the state got involved is that they  
9 expressed a strong desire to be involved in the  
10 implementation on the San Joaquin as far as restoration  
11 issues. So they agreed to enter into an MOU with the  
12 settling parties so there could be some type of  
13 coordination effort between the federal and state  
14 agencies. Because basically, on the federal side, they  
15 are going to be looking to state agencies for a lot of  
16 administrative- and implementation-type processes.

17           And where does that leave those of us who were not  
18 in the litigation aspect of the settlement? And  
19 basically, we were included in the litigation and also --  
20 I mean, the legislation, that's being pushed to congress  
21 currently as third party impact issues. And basically,  
22 we're looking at having input into the process so that any  
23 concerns that we may have that could develop out of the  
24 restoration process will be heard and get some kind of  
25 response to you. And also, everybody including the third

1 parties, also have the public input aspect under the  
2 environmental report process.

3 --o0o--

4 MR. HILL: Basically, the settlement was to  
5 accomplish those two goals. It calls for certain channel  
6 and structural improvements. Planning, implementation,  
7 mitigation, and funding measures are going to be needed  
8 for these goals to be met. In the settlement agreement,  
9 paragraph 11 stipulates the specific conditions in those  
10 two phases, in which, basically, I'm going to address in  
11 this presentation.

12 --o0o--

13 MR. HILL: Also, in your package, you have got a,  
14 what's called a, settlement activities map. Should be on  
15 the tab there. And basically, it shows each reach, those  
16 five reaches. And also, you will see in those reaches --  
17 like I said, each one was depicted of being -- you are  
18 probably going to have to unfold that and probably leave  
19 it out for reference, as I go through this presentation,  
20 because it's a good source for that.

21 In Reach 1, which basically is from Friant Dam all  
22 the way down to what's called Gravelly Ford, which is the  
23 last water delivery for Friant, outside of the exchange  
24 contract. They have broken it down to two reaches -- 1A  
25 and 1B for the obvious reason that the topography and the

1 physical characteristics are different.

2 Basically, when it gets down to Reach 2, that's  
3 basically where the beginning of the lower San Joaquin  
4 Flood Control Project beings. And the project will --  
5 starts there and it ends all the way at the confluence at  
6 the Merced River.

7 So basically, the impact to the flood project is  
8 all of Reaches 2, 3, 4, and 5. And also you see on the  
9 map, it also includes the bypass system.

10 And in the legend, it shows each reach and some  
11 specific issues addressed at each reach. And also, at the  
12 lower portion of the legends, it shows the two phases'  
13 activities that are going to be incorporated into the  
14 implementation.

15 And like I said, they are color-coded, like Phase  
16 1 is red, so what is highlighted in red as far as  
17 photographs is the stuff that will occur; and yellow is  
18 the Phase 2, or the combination of both.

19 --o0o--

20 MR. HILL: Phase 1 has some very specific  
21 improvements that are pointed out. Like I said, this is  
22 just a list. And basically, these improvements are based  
23 upon accepted flow of hydrographs, by all the parties  
24 involved, where they are talking about a minimum flow of  
25 475 CFS to a maximum plus-flow of 4500 CFS to try to get



1 some fishery establishment back in the San Joaquin. And  
2 like I said, that's just a list. As I go through the rest  
3 of the presentation, each of these items will be addressed  
4 in a graphic nature.

5 --o0o--

6 MR. HILL: The first one in Phase 1 is Reach 2B.  
7 Reach 2B is that portion of the river that is downstream  
8 from our control structures. As you can see, on the  
9 photograph right here, this is what's called the  
10 bifurcation. This is the San Joaquin river stream towards  
11 Friant. And the bifurcation, there are control structures  
12 where we can divert water into the bypass system or down  
13 the old stream of the San Joaquin down to what's called  
14 Mendota Pool, which is an irrigation facility.

15 The issue here is that, on paper, this particular  
16 reach of 2B is listed as 2500 CFS capacity when, in  
17 actuality, it's about 1300. Because of issues, as you can  
18 see, on the lower right, we have -- there's a lot of  
19 sloughing and settling that occurs on the adjacent  
20 properties if we start to get above the 1300 CFS.

21 So basically, when we're running flood flows in  
22 the San Joaquin, if this channel here is at 80,000 we can  
23 get only 1300 through here, so the balance of the flow  
24 goes to the bypass.

25 And then also, there's an issue that needs to be

1 addressed, is the fact that Pine Flat Dam on the Kings  
2 River can divert water into the San Joaquin through this  
3 portion here, called Fresno Slough. And basically, under  
4 the authorization of Pine Flat Dam, they can do downstream  
5 diversions of the first 4750 on the flood release into the  
6 San Joaquin before they send water down to the Tulare Lake  
7 Basin. So basically, what happens is, you start getting  
8 water in this reach; it affects what we can do at this  
9 particular location of these bifurcation structures.

10 Looking at this particular reach, like I said,  
11 they want to propose taking this Reach 2B to a 4500 CFS  
12 channel capacity so they can accommodate the pulse flows  
13 for the fish restoration.

14 So like I said -- and that's just part of the  
15 package. And as you go further downstream -- because once  
16 you get below Mendota Pool, the San Joaquin River has a  
17 capacity of 4500. So therefore, this particular reach is  
18 a bottleneck that used to be there.

19 If I am going too fast or if you need to stop and  
20 ask a question, please do. I'm trying to be as informal  
21 as I can, without trying to take up too much time.

22 So if you got any questions, just go ahead.

23 GENERAL MANAGER PUNIA: I think it may be good for  
24 the Board to know, at the bifurcation, your bypass  
25 capacity is 4500 CFS?

1 MR. HILL: 55.

2 GENERAL MANAGER PUNIA: 55.

3 MR. HILL: Yes.

4 GENERAL MANAGER PUNIA: And you are going into the  
5 river, your design capacity is 2500 but you can not push  
6 it more than 1300.

7 MR. HILL: 13, yes.

8 GENERAL MANAGER PUNIA: I can tell you that with  
9 Reggie, his experience in high water, he juggles the water  
10 to balance the tanks. But tanks are up to the berms and  
11 very -- we can lose the levee any time. And Stu Townsley,  
12 from the Corps, is sitting behind. I think between Stu,  
13 Reggie, and the Bureau people, they try to juggle the  
14 things to balance it, but it can get out of hand at any  
15 time.

16 MR. HILL: Right. Again, like I said, I will just  
17 keep moving on through this. As you get --

18 --oOo--

19 MR. HILL: Also, at Mendota Pool, as you can see,  
20 on the left side here, Mendota Pool, like I said, it's an  
21 irrigation facility for water deliveries. And as you can  
22 see, there's all kinds of outtakes and inputs. This is  
23 the Delta Mendota Canal that feeds water into the Mendota  
24 Pool. Here's the Slough for water that comes in from  
25 Kings River, north, and then there's outtake canals in

1 here.

2 In order to get fish reintroduced on the San  
3 Joaquin -- this is the San Joaquin as it comes through the  
4 dam here, and then it migrates over to the right. This is  
5 the old channel. In order to avoid a lot of conflicts  
6 that may occur with any type of fish introduction, the  
7 plan is to put or develop or construct a bypass around  
8 Mendota Pool at this location, which would be upstream,  
9 and just downstream, so there's a connection there, which  
10 means it's going to have some type of diversion structure  
11 at this point and some type of screen and diversion  
12 structure at this point for the fish.

13 So again -- and the reason is, is getting fish at  
14 this location, Mendota Pool. There's too many other  
15 pathways for the fish to get entrapped in.

16 So basically, that's the approach of the  
17 settlement agreement, that they were going to build a  
18 bypass around Mendota Pool so that that 4500 can go in the  
19 bypass and yet still make water deliveries to Mendota Pool  
20 for the -- from the Bureau's perspective as need be.

21 It needs to be understood here, too, that here, at  
22 Mendota Pool, there are four agents, water districts, that  
23 receive and take water for delivery here. And basically,  
24 they are called the San Joaquin River Exchange  
25 Contractors. And basically, what that means is that when

1 Friant Dam was developed, they wanted to -- the purpose of  
2 the Friant Dam was to take some of that water and divert  
3 it along the eastern part of the San Joaquin for  
4 development of lands in that direction.

5           So in order to do that, these people who are  
6 downstream on the San Joaquin had water rights. So  
7 basically, in exchange for allowing that water to be  
8 diverted south along the Friant current canal, they were  
9 guaranteed water from the Delta Mendota Canal from Shasta  
10 and the pumps at Tracy. And also, they are guaranteed  
11 water, that if they cannot get water from the Delta  
12 Mendota Canal, the water will come from Friant Dam.

13           So therefore, if they are going to get their  
14 water -- so that's one of the issues here, is the fact  
15 that they've got to get 2500 CFS to this point. So if you  
16 have got 4500 that's needed for fish flows here, and you  
17 need 2500 here, what's developed is the fact that this  
18 channel upstream, from this point, is now going to have to  
19 be 7,000 instead of 4500.

20           Everybody still --

21           MEMBER RIE: Is there funding in either state  
22 legislation or the congressional funding authorizations?

23           MR. HILL: Yes. Well, currently, the original  
24 funding, right now, there is legislation in Congress on  
25 both the Senate side and the House side. On the Senate

1 side, it was introduced by Diane Feinstein; it's called S  
2 27. And on the House side, it's by George Radanovich, and  
3 it's called HR 24. And basically, it's defined --  
4 established a funding source for that. The only way this  
5 thing could be implemented is through federal funding and  
6 with matching funds from the state.

7 MEMBER RIE: But is there any money to expand that  
8 up to 7,000 CFS?

9 MR. HILL: That's one of the issues that's still  
10 out here, is in question, that has not been answered, no.

11 But I'm just saying, at this point in time, the  
12 settlement agreement, the language in paragraph 11  
13 stipulated that that channel had to be 4500 CFS, and they  
14 were looking at specifically for the restoration flows on  
15 this pulse flow.

16 But what has happened is that with the issues that  
17 have now been concerned with what happens at the Tracy  
18 pumping plants, with the delta smelt, then there's issues  
19 of how are they going to get these water to these exchange  
20 contractors if they can't -- and they've got to get it  
21 from Friant Dam. And if it comes from Friant Dam. Then  
22 that channel has to have the restoration flows, and then  
23 in addition, those delivery flows that guarantee water.  
24 So that's how it got to 7,000. But as of this point, they  
25 have an unresolved as to how that's going to occur or how

1 the funding is to occur.

2 As I get further into the presentation, towards  
3 the end of it, I can talk to you about what those  
4 estimated costs are. And what we're -- maybe that will  
5 help at that point.

6 And like I said, the levee district was not a  
7 party to the litigation. So therefore, all of the  
8 information that I'm giving you is information that was  
9 given to me. We were not involved in any of the  
10 negotiations or any type of language litigation.

11 So all we know is what people are telling us.

12 So that's my information.

13 SECRETARY DOHERTY: Is this actually proceeding?  
14 Because I was reading in the paper that now people are  
15 having second thoughts about this.

16 MR. HILL: There are technical work groups that  
17 have been out, on the ground, doing on-the-ground studies,  
18 trying to get basic information from people such as us,  
19 who are considered the people with the skill and the  
20 knowledge of on-ground information, so that they can try  
21 and get something initiated so -- because right now, they  
22 have already issued the notice of intent and notice of  
23 preparation for the environmental documents on both the  
24 federal and state side, which responses were due today and  
25 on Monday, so they can go ahead and start developing

1 environmental documents.

2           So basically, it's moving. And right now, there  
3 is no established funding source for the restoration. So  
4 the federal and the state agencies are working under their  
5 own budgetary constraints, for whatever they may need,  
6 whatever funding they can get. That's how it's working.  
7 I mean, that's a good question. We brought up the same  
8 question. And now they are saying they are working under  
9 certain funding that they already have, and it's not  
10 specifically funding for this.

11           SECRETARY DOHERTY: You can get River Partners.  
12 They will do restoration work.

13           MR. HILL: Well, there's a lot of work.

14           Again, we're the agency on flood management, and  
15 basically we're addressing that. If there's habitat  
16 restoration issues involved, we just want to make sure  
17 that the channel is either -- is not reduced in its  
18 capability to do the design for us as far as our  
19 perception.

20           SECRETARY DOHERTY: I just wanted you to have all  
21 your money for the channels. That's all.

22           MR. HILL: Well, that's -- like I said, as this  
23 thing is progressing, that's the sound that we're getting  
24 from everybody, is the fact that don't put anything into  
25 the river until you have got everything in place, which is



1 guaranteed money. And also, you don't progress in any of  
2 the phases of this until you get the first phases done.

3 You don't go into Reach 2 until everything in  
4 Reach 1 is accomplished, because what's the sense? All  
5 you are going to do is create problems.

6 So that's the whole approach at this point.

7 Like I said, this is going to be expensive.  
8 Creating a new channel on the San Joaquin is going to be  
9 very expensive.

10 --o0o--

11 MR. HILL: Next, as you go downstream -- this has  
12 nothing to do with flood control issues, but it does  
13 address the fact that what's in paragraph 11, at the  
14 Arroyo Canal. This is at the end of Reach 3 and the  
15 beginning of Reach 4. That's the last water rights hold  
16 over on the exchange contract. So basically, they have to  
17 screen their delivery point into their canal, at the  
18 Arroyo Canal, so the fish don't get trapped, and also they  
19 have to do build some type of fish passage on their  
20 existing diversion facility, which is the Sack Dam.  
21 Basically it's the Sack Dam because it got that name from  
22 generations ago, because before they established it with  
23 the concrete, they threw bags out there, so it was called  
24 the Sack Dam. So it's just retained -- that location has  
25 just retained the name.

1           So anyway, this structure itself, that you are  
2   looking at, is probably 70 years old. So there's some  
3   issues that need to be resolved with that. And again,  
4   that has to do with irrigation. And like I said, the  
5   irrigation at this point, they need 800 CFS in order to  
6   get delivery to their system, which is just around this  
7   bend here.

8           So anything over that, it will overtop this and  
9   continue to flow on, downstream.

10                               --oOo--

11           MR. HILL: As we get further downstream, this is  
12   the point where Reach 4, it splits. There's a Reach 4A  
13   and a reach 4B. Reach 4A, which is this -- this is the  
14   upstream site here. This channel here, as you can see,  
15   these are our project levees, and these are the ones that  
16   we maintain.

17           Upstream, here, the channel has a rated capacity  
18   of 4500 CFS. This is the old channel of the San Joaquin,  
19   right here. And basically, when they built this flood  
20   project, they knew that this particular reach of the  
21   channel could not retain any type of significant amount of  
22   water, so it has -- on paper, has a rating capacity of  
23   1500.

24           So that's why they developed this intertie here  
25   between the river and the bypass system. This is the east

1 side bypass, here, for -- the confluence of the Merced  
2 connects with it.

3           So basically what happens is, there's a structure  
4 built right here on the San Joaquin. And basically,  
5 there's four culverts there. They're 5 feet by 6 feet.  
6 And those structures, I would say, they have not been  
7 opened or operated in the last 25 to 28 years for the  
8 simple reason, this portion of the San Joaquin River  
9 cannot handle any type of flow of the nature that it was  
10 intended. So what has happened is, all the flows that  
11 come down the San Joaquin just go down the intertie here,  
12 into the bypass system.

13           And so basically what you have to do, you have  
14 to -- they are going to have to alter that structure --  
15 the headgates, to this section of 4B, and then also are  
16 going to have to alter the struck of the sand slough,  
17 which is in here, which was built to help divert flows  
18 into there for a better structure for fish passage.

19           So what's happened is, as we look at that Reach  
20 4B, which is basically, like I said, on paper is 1500, but  
21 only in reality, is probably between zero and 200, is that  
22 that's what the river looks like. These are the  
23 photographs.

24           So basically, what happened is, in their plan,  
25 they want to -- if they are going to revitalize the river,

1 they want to have -- the challenge here is to take this  
2 river, and in the first phase, they want to make sure they  
3 can get 475 CFS through there, which is the minimum flow  
4 they need for fish restoration. So basically, under Phase  
5 1, they want to take this reach and try and get it to be  
6 475.

7           And if there's pulse flows involved, then  
8 basically what they are going to do is they are going to  
9 use the bypass system for fish flows above the 475, which  
10 is a real problem for us. Because what they are going to  
11 be doing on an interim basis, until they can get Reach 4B  
12 established, to accept a 4500, if that is the  
13 determination, then the bypass system, the east side of  
14 the Mariposa, are going to be utilized for fishery flows.  
15 The issue there is, it was designed for flood management,  
16 and this particular reach of the bypass system is easement  
17 only. So therefore, it's just a flowage easement. And a  
18 flowage easement is very specific. That is for flood  
19 waters and nothing more. So therefore, if you are putting  
20 flows across this property, and the property, underlying  
21 property, is still owned by the adjacent landowner, then  
22 what you are doing is, you are in violation of the current  
23 easement. So therefore, there's some easements that are  
24 going to have to be approached as far as trying to develop  
25 any type of restoration channel through the bypass system.

1           And what happens is that if you don't, what you  
2   are doing is you are in violation of the easement, and  
3   then you are also introducing an endangered species on to  
4   private property without permission.

5           So basically, that's one of the -- another  
6   challenge that has to be overcome, if this is going to  
7   occur is -- this is part of the restoration bill.

8           And again, like I said, this is supposed to be on  
9   an interim basis under Phase 1. And until they get to  
10   Phase 2 -- but hopefully, that -- they can get the river  
11   developed to accept all of the 4500.

12                               --o0o--

13           MR. HILL: As you go further downstream on the  
14   bypass system, what they also have to take a look at on an  
15   interim basis is they have to modify these flood control  
16   facilities, these structures, in order for fish passage.  
17   And also, they have to put a screen across this side  
18   bypass in order to keep fish from getting trapped. On the  
19   bypass system, make sure that they stay within, what you  
20   see here, is the flow of the bypass channel. This is the  
21   east side. It's further downstream from that intertie.  
22   And basically, here's the two control structures that we  
23   divert flows in either direction or to -- for the best  
24   benefit of flood management. And if they -- if they want  
25   to utilize this particular stretch of the east side and

1 all of the Mariposa bypass, which this reach here is about  
2 three and a half miles, for fish flow restoration. So  
3 basically, they have got to get past these bypass control  
4 structures and then also there's a drop structure at the  
5 end of the Mariposa Bypass, which has about a 5-foot wall  
6 that has to be overcome.

7 --o0o--

8 MR. HILL: And then further downstream from that,  
9 there's a couple of sloughs that they have got to put  
10 seasonal fish barriers in, to keep the fish out of the  
11 wrong pathways.

12 And that's basically all of the Phase 1  
13 requirements that we are looking at.

14 And then in phase two, and again, back up a little  
15 bit. Phase 1, all of these are supposed to be  
16 accomplished by the end of 2013.

17 And Phase 2 is supposed to be accomplished by the  
18 end of 2016. So this is a pretty aggressive schedule that  
19 they are looking at here, for the amount of work that  
20 needs to be done. And like I said, again, we've got some  
21 more issues here. But these are the things that are  
22 supposed to be done under Phase 2, by 2016, which is --  
23 this is upstream from us. Just below Friant Dam, there's  
24 a lot of sand gravel operations. Got to take a look at  
25 those and make sure that there's no entrapments with the

1 gravel pits.

2 And then they get down to us at the bifurcation  
3 structure, the head of bypass system. Basically, what  
4 they have got to do here is they have got to develop some  
5 kind of fish passage and also a fish screen on the bypass  
6 system to try and keep the fish out of the bypass system  
7 for the flows that they intend.

8 And the problem that we have with that is that  
9 under normal operations, the way that the system is  
10 handled now, under our own end that we get from the Rec  
11 Board, is that we have to divert flows like -- as stated  
12 earlier, into the river and into the bypass. So it's the  
13 best benefit for protection. Well, in doing that, what  
14 you do is you squeeze the water in -- down the San  
15 Joaquin, on this structure here, and the bypass has  
16 started to accumulate where it can.

17 If you get flows above this structure's  
18 capability, then what happens is, you create an upstream  
19 pond effect. And as you can see on this photograph here,  
20 there's a tremendous amount -- what happens is, water  
21 slows down and a lot of the sediment that's flowing in  
22 the channel settles out, so you got a tremendous amount of  
23 sand deposition, upstream. And what that does is, we've  
24 got upstream levees that have a foundation instability  
25 issue. And what you were doing is that you are just

1 raising water elevation to a higher extent that is going  
2 to challenge these levees' capability to maintain, and  
3 eventually, they are going to fail.

4           So basically, if you are going to put fish screens  
5 on these structures, which means that you are going to  
6 slow the water down even more, than you have got to  
7 address the sand deposition issue on a continuing basis.  
8 And also, you are going to have to address levee issues  
9 because you got levees foundation issues that need to be  
10 addressed.

11           So these are the things that are out there, that  
12 are not specifically addressed in the settlement. But as  
13 this thing evolves, these are things that are going to  
14 have to be handled.

15                               --o0o--

16           MR. HILL: And then like I said, as you get  
17 further downstream, again, go back to this point where  
18 that intertie is between the river and the bypass. They  
19 want to -- like I said, this particular reach of the  
20 river, they want to try and get it to 4500 CFS so that  
21 this particular reach of the bypass can go back to what  
22 its intent was.

23           But under the settlement authorization, if in the  
24 opinion of the secretary of the Interior, if developing  
25 this particular reach does not establish, or reach, the



1 restoration goals as intended, then they will abandon it  
2 and continue to use the bypass system for fish flows  
3 forever, which means they are going to be using it for  
4 establishing riparian habitat in the floodway channel,  
5 which means that they are going to have to address the  
6 instability of the levees.

7           As you can see here, again, we've got a very wide  
8 system. And the river water gets to this point, it gets  
9 so wide, it slows down. We get a lot of the sediment that  
10 drops out. So therefore, you got deposition in the bypass  
11 system that has to be maintained on a continuing basis.

12           And also, you have got, in this area, a natural  
13 subsidence issue. This is something that we worked with  
14 DWR about over ten years ago. We noticed that we had a  
15 significant drop in the freeboard on the bypass system in  
16 1995. This particular reach of the channel is designed  
17 for 16,500 CFS. And in '95, we had about 12,000 in there,  
18 with a foot and a half of freeboard, and 16,500 is  
19 supposed to have 4 foot of freeboard.

20           So what has happened is, in working with DWR and  
21 the Rec Board, in the year 2000, these levees, both on the  
22 left side and the right side, were raised 3 feet. That's  
23 how much subsidence had occurred in the last, the  
24 previous, 20 years ago.

25           So that's an issue that needs to be addressed in

1 river restoration if they are going to use this particular  
2 reach of the bypass system for fish flows in perpetuity.

3 Like I said, I already touched upon that. This is  
4 at Reach 4B. What we're talking about here is the  
5 intertie. Here is the bypass system. Here is the reach  
6 4B. If it's -- like I said, this is language right out of  
7 the settlement. And basically, if it is determined that  
8 it's not to the best benefit to utilize that portion of  
9 the river, then they will utilize the flood control bypass  
10 for fish.

11 --o0o--

12 MR. HILL: And in light of all of these specific  
13 physical things that need to be addressed in the channel,  
14 they knew that things were going to occur. So basically,  
15 paragraph 12 of the agreement is kind of the catchall.  
16 Like I said, there's going to be additional issues that's  
17 going on out there. And this paragraph 12 says that as  
18 they come up, they hopefully will be addressed and taken  
19 care of.

20 But again, there's a tremendous amount out there.  
21 There's a tremendous amount of people who are still  
22 unaware of the total impact of what the restoration is  
23 going to do to them if they live along the river. Because  
24 like I said, most -- all of this negotiation and all of  
25 this detail that you said here came out of just the

1 settling parties. There was no input from the third  
2 parties and all -- in any of this language.

3 --o0o--

4 MR. HILL: So basically, what we did is, we put  
5 together a -- this is Table 1. And basically, this is  
6 just kind of restoration actions by each reach. Instead  
7 of going through the phases, this shows you each reach and  
8 what needs to be done in each reach in order to accomplish  
9 the restoration goals as they are proceeding at this time.

10 And like I said, it goes through each reach, and  
11 I'm not going to go through each one because we'll be here  
12 for a very long time.

13 And now we get to the interpretation of what  
14 exactly are the restoration flows? Basically, there was a  
15 hydrograph that all parties agreed to, by a Professor from  
16 UC Berkeley, who came up with a study. And basically,  
17 what I'm showing here, this is the base flows that are  
18 going to be coming out of the -- on the San Joaquin and  
19 Friant Dam.

20 And basically, there is a criteria where they are  
21 going to establish, each year, as to what kind of year it  
22 is, which basically starts at a critical low, dry, year,  
23 all the way up to a very wet year. And each one of those  
24 has a different hydrograph as to what kind of releases,  
25 flows, will be on the Friant Dam for the San Joaquin

1 restoration.

2 And the example that's shown here is under a  
3 normal wet year. And as you can see -- the federal water  
4 year starts in October. And you can see that the -- on a  
5 basis right now, from this point on, as restoration  
6 continues, there will be continuous flow in the San  
7 Joaquin as it is compared today, which basically, there is  
8 a reach -- starting at the Reach 2, there is no water,  
9 because that's water rights over that Friant Dam and the  
10 Bureau deliver to.

11 And what that does is, as you can see, as we go  
12 into March and April, they want to use pulse flows for the  
13 fish restoration. So you are going to be going up to,  
14 possibly, close to over 4,000, 4500.

15 The issue here is that these are restoration  
16 flows. As these flows get into the system that we  
17 maintain in Reach 2, what happens is, we have to go on  
18 flood watch under our O&M manual specifications, when the  
19 water touches the waterside toe of the levee. And that  
20 happens before 4,000.

21 So what is happening, we even get seepage issues  
22 before it even touches that issue. So you are going to  
23 have some adjacent land -- water flooding impact issues  
24 with restoration flows. So there's got to be some funding  
25 source in order to address that and mitigate for that kind

1 of problem.

2 And also what happens is that if these restoration  
3 flows are in effect and they are touching the toe of the  
4 levee, we have to go on flood watch because of the  
5 possibility of levee failure because of the foundation  
6 issues in the particular reaches. So who's paying for  
7 that? And that's one of the issues that's got to be  
8 addressed or mitigated.

9 --o0o--

10 MR. HILL: And basically -- this one isn't as  
11 good; in your handout, it's a lot better. Basically, it's  
12 just an accumulation of all the things we basically just  
13 been talking about.

14 It's shows the river. This is all the reaches.  
15 The blue is just the river as it comes down to Mendota  
16 Pool, and then it migrates north to the Merced River.  
17 Basically, just shows what each channel's capacity is, as  
18 on paper; it's not a reality check. And so -- in each one  
19 of these reaches, it's delineated here. And each --  
20 there's a highlight here as far as color, the numbers as  
21 it relates to the bottom, what kind of action is going to  
22 be taking place in those particular reaches. So  
23 basically, that's for your information. I don't need to  
24 delve too much into that.

25 So the problem that we have, and we developed a

1 list, is that we went through the channels -- I mean,  
2 through the reaches. We looked at each reach and  
3 basically tried to delineate if there's project issues.  
4 Like I said, again, it doesn't get to us until it gets to  
5 Reach 2. And reach 2A -- like I said, the channel  
6 capacity, if you look at Table 2 under Reach 2A, on the  
7 third column, the design capacity is 8,000 and a minimum  
8 design flow for restoration is 7,000. That's that 4500  
9 for design flow and 2500 for water delivery. And  
10 basically, what we have is, we have piping and seepage  
11 issues. And then we go to potential impacts, and then we  
12 go over here to what type of improvements may need to be  
13 done. And Butch, we listed slurry walls as one of those  
14 things that needs to be looked at, basically, because  
15 we've got foundation issues.

16 We've -- in our own maintenance, we've addressed  
17 some small boils and seepage issues. And with our  
18 backhoe, which basically has about a 16-foot arm, we've  
19 hit nothing but pure sand below these levees.

20 So that -- it's going to be a perpetual seepage  
21 issue that's going to have to be addressed in some manner  
22 if you are going to provide restoration flows in these  
23 reaches and keep the adjacent property owners in wet --  
24 wet conditions on a -- like I said, on a continual basis.  
25 So it's a mitigated manner that needs to be addressed.

1           And like I said, each one of these issues are  
2 listed for each reach and what kind of a result we  
3 hopefully think needs to be looked at and addressed.

4                           --o0o--

5           MR. HILL: Next slide is also a continuation of  
6 Table 2.

7                           --o0o--

8           MR. HILL: And basically, we got a restoration  
9 timeline as per the settlement agreement. And basically,  
10 it starts in 2007, which is basically what Lady Bug was  
11 talking about. What are they doing now? These are the  
12 things that they are internally.

13           And basically the one that's an eyeball for us is  
14 that in 2009 they are going to initiate interim  
15 restoration flows. What's that mean is they are going to  
16 be putting flows into the system to try and delineate what  
17 kind of issues are going to be presented with, kind of,  
18 flows -- basically, it's just to test each channel to see  
19 what it can and cannot do. And then they're going to make  
20 the determination there, is where they need to go as far  
21 as how to move.

22           And like I said, in 2012, they are going to  
23 reintroduce the salmon. And the introduction of the  
24 salmon in the agreement in the federal legislation is that  
25 it's going to go to be classified as an experimental

1 reintroduction. So therefore, there's going to be some  
2 restrictions on the ESA regulations as far as people, like  
3 us, who are doing maintenance, that we won't be impacted  
4 and having to do all types of mitigation for doing the  
5 basic work that we need to do.

6 And also, in addressing those kinds of issues is  
7 that the river being -- the water being in the river and  
8 in the bypass system, on a continual basis, is going to  
9 change the way we operate forever. So therefore, there's  
10 some mitigation issues that need to be resolved in that.

11 --o0o--

12 MR. HILL: Basically, just to conclude, this is an  
13 issue that needs to be addressed up front. And basically,  
14 this isn't all the issues in entirety. This is just  
15 basically the ones that need to be looked at on a surface  
16 basis, at this time.

17 And this is the one thing that I talked with Stu  
18 Townsley about, is the Kings River flows into this system  
19 dictate the San Joaquin flows. And that's got to be  
20 addressed in the settlement. Because if he can't operate  
21 Pine Flat in a manner which he's accustomed to or he's  
22 authorized to, then there's mitigation issues that need to  
23 be resolved in that. So basically, the Kings River flows  
24 are coming into the San Joaquin. So therefore,  
25 restoration flows are going to have to accommodate Pine



1 Flat flows.

2           So basically, under our project, we maintain for  
3 the state -- basically, I wanted to read these and get to  
4 them. But the existing channel capacity in the bypass  
5 system is sufficient to handle the interim restoration  
6 flows. However, these flows do not comply with the  
7 originally mandated purpose of the system and do not  
8 comply with conditions of flood easements for a major  
9 portion of the bypass system, which I alluded to earlier.  
10 So therefore, there's going to have to be some expanded  
11 easements, some land acquisition, and also new legislation  
12 will be needed to route nonflood flows through the bypass  
13 system.

14           And new litigation is basically because the  
15 legislation that our district was authorized under is very  
16 specific as to what our obligations are. So if our  
17 obligations are going to change in the manner of respect  
18 for restoration flows in a flood project, then there's  
19 going to have to be new legislation to delineate that,  
20 which is going to require a lot of negotiation between the  
21 state and us.

22           Also, that the additional costs to maintain the  
23 channel, the levees, and related flood control facilities,  
24 that would be constructed under the settlement, will far  
25 exceed our current operating budget. So therefore,

1 additional, perpetual, funding is needed to cover this  
2 increased cost and maintain the channels and levees in the  
3 way we can control facilities that would be altered or  
4 constructed under the settlement.

5           Additionally, the presence of water in the river  
6 channel, year round, or at extended times during the year  
7 will change our activities, including our timing, the type  
8 of tools, and the techniques that we use.

9           So basically, the levee district is obligated to  
10 maintain the bypasses and the channel of the San Joaquin  
11 River to condition where the channel will carry flood  
12 flows in accordance with the maximum benefits of flood  
13 protection. This obligation may be in direct conflict  
14 with some of the proposed restoration actions, including  
15 those that encourage vegetation growth in and along the  
16 river or bypass channels. The settlement should not  
17 conflict with or reduce the channel capacity or its  
18 overall ability to convey flood flows, in any way. The  
19 existing channel capacities must be maintained or  
20 enhanced.

21           Basically, that's all I got. The rest of this is  
22 basic information for you. This is the restoration  
23 program as it's structured. This is the graph. And where  
24 we come in, is, down here, in the bottom, under  
25 cooperating agencies, we have a letter from the Bureau of

1 Reclamation, where we were looked at as a cooperating  
2 agency. We have some expertise in this particular reach  
3 of the river. And so therefore, we have input into the  
4 technical work groups, which is these four people here who  
5 are made up of staff from Bureau of Reclamation and DWR.

6 And also, we did third-party input under the  
7 environmental documentation. So basically, this is kind  
8 of a flowchart to give you an idea of how all this  
9 information is going to go and where it's going to go.

10 And the final determination is, again, through DWR's  
11 governor's office; and on the federal side is the  
12 secretary of the interior.

13 --o0o--

14 MR. HILL: And then it gets to the issue of the  
15 cost that Teri was talking about. Initially, they got a  
16 huge range here. The low cost is 250 million; the high  
17 one is 800 million.

18 And people that I have talked to on the technical  
19 is, as time goes on, the 800 million is going to get a lot  
20 bigger. And you are probably going to be looking at  
21 something in the vicinity of 1 billion or more to do river  
22 restoration.

23 So basically, like I said, this is -- in a  
24 nutshell, this is really quick, and it doesn't cover all  
25 the specific issues. And like I said, the pamphlet is

1   yours to help you understand and get a better grasp of  
2   some of the issues that are going to be going on down  
3   there.

4           And also, the landowners in our area, through an  
5   organization called the San Joaquin Resource Management  
6   Coalition, they've basically built themselves to create  
7   the organization so they can have input into issues on the  
8   San Joaquin. And this isn't something that's in your  
9   packet. But they've been under contract with CH2M Hill to  
10   basically do an appraisal of the issues and on the  
11   concerns. And basically, this is the first draft. This  
12   thing is many, many pages. So there's a lot of issues  
13   that are very specific in here that details a lot of the  
14   things that need to be addressed for not only flood  
15   control, but water issues and stuff of that nature.

16           So again, like I said, there's a lot here. And  
17   I've only touched on the surface.

18           So at this point, that's -- I'm done.

19           SECRETARY DOHERTY: Are you forewarning us about  
20   what's going to be happening? Because you are going to be  
21   coming to us, asking for money and channel restoration and  
22   whatnot?

23           MR. HILL: Well, I'm not going to be asking for  
24   channel restoration. We're going to be addressing the  
25   agencies involved, which is DWR, Department of Fish and

1 Game on the state side; and on the federal side, the  
2 agency is the Bureau of Reclamation, U.S. Fish and  
3 Wildlife, and National Marine Fisheries.

4 But the authorization has to come from Congress  
5 before this thing can be implemented. And those are the  
6 things that need to be covered. Because like I said,  
7 there's a tremendous amount of issues out there that  
8 haven't been addressed. So this number that we're talking  
9 about, 250 to 800, it may be insufficient.

10 So there's a lot of issues that are going to  
11 escalate this. And until those things are guaranteed, all  
12 the people along the San Joaquin are saying, you know,  
13 "Let's don't go forward with this and do something that's  
14 going to be a headache for everybody until we get  
15 everything resolved," which includes assured perpetual  
16 funding.

17 At this point, let's -- you know, Congress are  
18 going to pass legislation to get this thing initiated.  
19 But like I said, there's some ongoing monitoring issues  
20 with restoration flows, and basically from our aspect with  
21 trying to manage the project to the best of our  
22 capability, as it was intended with -- and dealing with  
23 these flows and all the issues that are related to that.

24 So therefore, there's some funding that has got to  
25 be guaranteed to the district so that we can take care of

1   that without having to bill our landowners specifically  
2   for that. Because if this is looked upon as a benefit for  
3   the people of the state of California and the United  
4   States, then all of those should be pointing at the  
5   funding for that.

6           SECRETARY DOHERTY: Would it be possible to invite  
7   all those people that instituted the lawsuit, to invite  
8   them to come up and settle in the Sutter Basin, and we  
9   could tear down the Shasta Dam?

10          MR. HILL: I'm not going to answer that one. I  
11   will let you approach NRDC and talk to them about that.

12          MEMBER RIE: I have a question. Is the Bureau  
13   going to manage all the design and construction, or are  
14   they doing that in collaboration with DWR?

15          MR. HILL: Again, it's an MOU. And basically, the  
16   MOU that the DWR established, I don't know if anybody here  
17   from that particular aspect of DWR is present.

18          But basically, they are looking upon DWR to be  
19   on-the-ground-type work. So basically, they are going to  
20   be the ones who are going to be administering, possibly,  
21   all the contracts, for any of this stuff to be  
22   implemented. I'm sure, it's going to be done through  
23   consultants and contracts.

24          MEMBER RIE: So DWR would manage the consultants  
25   who are doing the design and the construction?

1           MR. HILL: That's my understanding. Again, I am  
2 not a party to the MOU. The MOU is part of those things  
3 that was attached to the settlement agreement that we were  
4 not in negotiations with. I don't know if --

5           Dan can maybe answer a few questions.

6           SUPERVISING ENGINEER FUA: I was participating in  
7 that state coordination team. And you know, we haven't  
8 met since April or May. But the plan is for DWR to assist  
9 the Bureau of Reclamation for all the technical aspects of  
10 the program. But it's the Bureau of Reclamation that is  
11 the main agency that managed this. This is a federal --

12          MR. HILL: Yeah, it's a federal authorization. So  
13 I stand corrected. So Dan's closer to it than I am.

14          MEMBER RIE: A lot of the components of the  
15 settlement are going to require modification to the plan  
16 of flood control and modification to our federal project  
17 levees.

18          So if congress authorizes this, does the Bureau,  
19 if they are the managing lead agency, do they have to get  
20 permits from the Reclamation Board?

21          MR. HILL: Yes, they do.

22          SUPERVISING ENGINEER FUA: No.

23          MR. HILL: I thought they did. Well, as a federal  
24 agency, they don't have to.

25          SUPERVISING ENGINEER FUA: But that's the reason

1     why they invited us to participate in the planning.

2             MEMBER RIE:   So a federal agency is not -- if they  
3     want to modify the plan of flood control, they don't have  
4     to get a permit from our Board?

5             SUPERVISING ENGINEER FUA:   And at our meeting,  
6     they did mention that they will invite Reggie to be part  
7     of the technical team.

8             MR. HILL:    Sure.

9             SUPERVISING ENGINEER FUA:   And I don't know if  
10    they have done that.

11            MR. HILL:    Like I said, we met with Jason  
12    Phillips, who's the interim program manager, for the  
13    Bureau, on the program here.   And basically, they looked  
14    upon us as people with the skills for on-the-ground  
15    issues.   And we're looked at as a cooperating agency under  
16    the third party aspect.   So we're definitely going to be  
17    involved.

18            And like I said, we've already responded to the  
19    NOI/NOP that are currently out.   And basically, as soon as  
20    the environmental document comes out, we will do the  
21    evaluation and response for it.

22            SUPERVISING ENGINEER FUA:   And the main reason why  
23    I believe we haven't resumed talking is because, you know,  
24    without the federal implementing legislation, the  
25    settlement agreement cannot proceed.   Because there's no



1 money. And the state won't put up the money unless the  
2 feds has their money.

3 SECRETARY DOHERTY: So it may never occur?

4 SUPERVISING ENGINEER FUA: Well, as you probably  
5 end up reading --

6 LEGAL COUNSEL MORGAN: Sometime, something is  
7 going to occur. The Court ruled in favor of NRDC. And,  
8 you know, the Court has basically one tool, which is sort  
9 of a sledge hammer. And if the parties want to craft  
10 their own agreement, they are free to do that. If they  
11 are unable to craft their agreement, do it by the court.  
12 And the court has already indicated that it's going to  
13 order flows to restore the fisheries.

14 And then, you know, we'll deal with the  
15 consequences. But yeah, as far as the federal reference  
16 is concerned, this is a federal project. Now, I think,  
17 the particular element of the project was constructed by  
18 the Department in lieu of some easements.

19 Is that the case?

20 MR. HILL: Yeah, the federal project --

21 LEGAL COUNSEL MORGAN: But still part of a  
22 federally authorized project.

23 MR. HILL: Correct.

24 LEGAL COUNSEL MORGAN: So this was all determined  
25 by the state. It's part of the federal project.

1           If the federal government -- there's a section  
2   somewhere down near the ship channel that is a big hole in  
3   the levee, that was put there by the Corps of Engineers.  
4   Steve knows where that is. They didn't ask our  
5   permission; they just did it.

6           If something ever happens, you know, our defense  
7   is, simply we are in charge of the Plan of Flood Control.  
8   But if the federal government, under the supremacy clause  
9   comes in and does something different, that Plan of Flood  
10   Control, that we have given assurances for, no long  
11   exists. We can't be held accountable for that. The feds  
12   then have to deal with the consequences.

13          MR. HILL: Like I said -- that's right, Scott.  
14   And also, the fact that the changes that are going to  
15   occur, or the new construction that is going to occur,  
16   they are going to be looking at a local agency to do the  
17   ongoing monitor maintenance. That's not part of our  
18   initial obligation. So therefore, that's a negotiation  
19   thing that's going to have to evolve in some manner. And  
20   how that's going to fall out, we don't know. Because  
21   unless there's some guaranteed perpetual funding, I don't  
22   see our Board of directors accepting any type of  
23   obligation with that.

24          And then to go back to that Reach 2B, that is a  
25   particular reach of the system between the bifurcation

1 structure and Mendota Pool. That is not under the  
2 authorization of our flood project. It's always referred  
3 to as no man's land. So there's 4500 to 7,000 -- talking  
4 about construction and building levees and new bypasses  
5 around Mendota Pool. They don't know who's going to  
6 operate and maintain that.

7 And that's another question, too, is that under  
8 restoration flows, if there are no flood flows involved,  
9 who's going to tell us where the flows go? We have the  
10 control facilities. And do we take direction from someone  
11 else? Again, that's another negotiable thing that's got  
12 to be mitigated.

13 So there's a lot of unanswered things out there  
14 that have not been resolved yet.

15 MEMBER BURROUGHS: Mr. President?

16 Should the Board be involved at all in  
17 communicating to the judge what impacts this might have on  
18 the whole system? I think there's still some third party  
19 implications that never got addressed.

20 PRESIDENT CARTER: I don't know the answer to that  
21 question.

22 MEMBER SUAREZ: I think the process will be that  
23 they will be addressed through the NEMA process and  
24 through other processes. So the settlement wasn't entered  
25 without recommendation, and there's going to have to be a

1 lot of negotiation and deal with other interests and other  
2 concerns. But that's why -- what they mean by the CEQA  
3 process as opposed to start flushing out.

4 MEMBER BURROUGHS: I don't think so. Reggie, is  
5 that -- I thought you said that there was some -- the  
6 third party impact really never got addressed at the court  
7 level.

8 MR. HILL: Well, that -- and the third parties'  
9 concerns kind of evolved out of the work with Senator  
10 Feinstein and in the legislation, as far as carving the  
11 language, that the third party issues have to be addressed  
12 before the federal authorization -- the federal  
13 legislation can be authorized. Because in the initial  
14 settlement agreement, those things are just kind of  
15 brushed upon and wasn't very specific.

16 So that's why they did -- a lot of landowners did  
17 a lot of leg work with Senator Feinstein and Congressman  
18 Radanovich to make sure that those specific issues were  
19 included in the federal language before anything was  
20 authorized.

21 PRESIDENT CARTER: Mr. Punia?

22 GENERAL MANAGER PUNIA: Quick comment.

23 The purpose of Reggie's visit was that he's --  
24 never get a chance in expressing his concern about the --  
25 on the flood control project of the settlement, so we

1 wanted to bring this to the Board's attention.

2 MEMBER RIE: I think it's great that you came here  
3 today and you are giving us this briefing. I think this  
4 is probably the first time -- I know you've been here  
5 before, but this is the first time we've gotten this much  
6 detailed information. And I think it's really important  
7 that the staff, Jay, Dan, that you continue to participate  
8 in these meetings and continue to brief the Board and keep  
9 us in the loop; whereas, we might not be able to issue a  
10 permit for any of the work as a result of the settlement  
11 agreement. You know, we're definitely going to have  
12 input. And I think this is one of the few opportunities  
13 that the public can get their input in, is coming to our  
14 Board when we have these scheduled hearings. Then we can  
15 pass that along to all the other parties.

16 So I think it's important for us to continue to  
17 have these discussions, even though we may not be able to  
18 permit anything or approve anything.

19 MR. HILL: Part of our input and feedback with  
20 this is addressing those specific things, Teri, is that,  
21 yeah, we know that the federal government doesn't have to  
22 get permits from the state agency, but it's very, very  
23 important that that process not be skimmed over. There's  
24 got to be communications. So part of our recommendations,  
25 our concerns, is the fact that if you do anything to deter

1 the intent of the flood project, then you are going to  
2 have to go before the Reclamation Board and you are going  
3 to have to go before the Board of the Lower San Joaquin  
4 Levee District Directors to address those things and get  
5 feedback. And whether it's through a permit process or  
6 whatever, as that -- like I said, it legally may not be  
7 required. But those are processes that they need to go  
8 through, to make sure that all of those things are  
9 addressed and covered. And like I said, they are going to  
10 have to get permits from their own Corps; they are going  
11 to have to get permits from Fish and Wildlife, Fish and  
12 Game, for any of this stuff to occur. So there's that  
13 process that's out there, that they have got to go  
14 through. So why not continue it through this Board?

15 MEMBER RIE: So are you saying that they should be  
16 getting permits from our Board?

17 MR. HILL: Our recommendation is this they have  
18 got to come to this Board and address those issues, yes.

19 MEMBER RIE: Okay.

20 MR. HILL: That's our input into this process.  
21 And they don't have to accept that and go with it. That's  
22 our input into this -- into this issue.

23 VICE PRESIDENT HODGKINS: Steve or Dan, I mean,  
24 isn't there an agreement between the Board and the federal  
25 government with respect to operating and maintaining the

1 flood control elements of the San Joaquin project, just  
2 like there is on the Sacramento?

3 CHIEF ENGINEER BRADLEY: Yeah. We have an O&M  
4 manual. I'm pretty sure we have your assurance on this.

5 MR. HILL: Yes, there is.

6 CHIEF ENGINEER BRADLEY: Yeah. So although they  
7 would have to get a permit from us, still, the Corps would  
8 be involved in these changes that they would require.

9 So they don't get a free ride here, I guess I  
10 would say. They can't just go do what they want to the  
11 flood system without coordinating with other agencies,  
12 including the Corps of Engineers.

13 VICE PRESIDENT HODGKINS: Well, yeah, to the  
14 extent that congress authorizes a new project, it seems to  
15 me, somehow, they have to address the existing federal  
16 agreement between the Corps and the Reclamation Board with  
17 respect to the flood control aspects of this, or else  
18 they -- they run the risk somewhere down the line of  
19 getting sued by somebody who will figure out what they  
20 should have done. But that says to me that the Corps  
21 should also be involved here.

22 And are they?

23 SUPERVISING ENGINEER FUA: I'm not sure. The team  
24 that I participated in is the state. But, you know,  
25 when -- I made a statement to the team that, you know,

1 anything that they do in the flood control system that we  
2 should be made aware, that we should have input to it, and  
3 that we should agree to it. That was my statement to the  
4 team. But they can't just do anything without consulting  
5 us.

6 They may not need a permit, but at least we get  
7 the -- maybe some kind of approval or concurrence to what  
8 they are doing. And they agree to it. They are not just  
9 going to do anything -- do anything on the project without  
10 consulting us. That's why they suggested that Reggie  
11 should be part of that technical team in regards to the  
12 changes to the flood control system.

13 MR. HILL: And that's part of the project --

14 SUPERVISING ENGINEER FUA: Yeah. It's not the  
15 intent to just, you know, ignore us.

16 MR. HILL: And that's one of the issues too, that  
17 I've discussed with Stu Townsley is the fact that these  
18 flood control operations are going to be very much  
19 affected by what occurs on the San Joaquin. And so his  
20 particular operational group needs to be involved or needs  
21 to have some type of contact, communications involved. I  
22 know he's in contact with the operator at Friant Dam and  
23 we're getting some feedback on that. Probably should be a  
24 little bit more extensive than that. And Stu and I can  
25 figure that out, maybe on our own.



1           MEMBER RIE: Well, should we send a letter to  
2 Congress?

3           MEMBER BURROUGHS: That was one of my questions.  
4 But Reggie, you touched on it. But I know in talking with  
5 you, you said you had some major concerns that once water  
6 is kind of implemented into the system, that this whole  
7 system has a huge chance of collapsing, because it cannot  
8 maintain that type of water year round; right?

9           MR. HILL: And those are the concerns that we are  
10 going to address in documentation, is the fact that in the  
11 settlement agreement, like I said, that paragraph 11 was  
12 very specific about the physical things that are going to  
13 occur. The infrastructure needs to occur for the releases  
14 at Friant Dam to have an effect towards the goals of the  
15 restoration.

16           And basically, in there, it does not address levee  
17 instability issues. And those are the things that need to  
18 be fixed. And those are the things that you cannot  
19 operate in the manner with which they are proceeding  
20 without addressing those things.

21           So it's got to be taken care of, or what's going  
22 to happen is, the judge who's going to authorize this is  
23 going to get pretty red-faced when he busts the levee with  
24 initiation over some type of restoration flow. So it's  
25 got to be done. And again, I think it goes back to what I

1 mentioned before, is the fact that you don't try and work  
2 every reach of this whole program a little bit at a time.  
3 Start at the upper end and just work your way downstream,  
4 and don't get past certain points unless you accomplished  
5 all that you intend to. And make sure that everybody's in  
6 agreement.

7 Because our -- the big fear of most people is  
8 that -- you have seen federal projects where they have  
9 been authorized and they go out they do something and it  
10 becomes incomplete. And what happens is, it becomes a  
11 headache and very onerous issues for the locals.

12 So those are the things that we've got to make  
13 sure that they are not occurring again here at this  
14 situation. So we don't want something half-baked out  
15 there. It's either got to be all or nothing.

16 SECRETARY DOHERTY: So I don't think it was a  
17 frivolous question that you asked, Teri. Would you --  
18 would you like us to write a letter to congress?

19 MR. HILL: I wasn't asking for that. I'm just  
20 here to --

21 SECRETARY DOHERTY: I understand that.

22 MR. HILL: You are asking Teri. Okay.

23 PRESIDENT CARTER: Let me make a suggestion. The  
24 state is participating in -- as part of your presentation,  
25 you talked about the DWR and DFG having an MOU and

1 defining the state's role in this -- the implementation of  
2 the settlement.

3 I suggest that staff look at that MOU and look at  
4 what DWR and Department of Fish and Game have committed to  
5 so far, as far as this process; and also investigate  
6 whether or not staff is satisfied, or the Board is  
7 satisfied, with regard to their perspectives on flood  
8 control of the facilities in terms of their representing  
9 flood control; and the Rec Board get informed and  
10 possibly, depending on the situation, involved in that.

11 And that may end up in a letter to, perhaps, the  
12 state and the federal agencies that are responsible for  
13 implementing it, just expressing our concerns about flood  
14 control. Let's figure out what state participation is  
15 first and then go from there.

16 VICE PRESIDENT HODGKINS: So you are suggesting we  
17 would get state staff and maybe some money from the Bureau  
18 of Land to talk to us about how they are dealing with the  
19 flood control aspects of this project?

20 PRESIDENT CARTER: I was suggesting that our staff  
21 get with DWR and Department of Fish and Game and find out  
22 what this MOU says as far as state's participation in the  
23 implementation of the settlement agreement. Because it  
24 says that the MOU to define the state's role has been  
25 executed and defines the coordination between state and

1 federal agencies.

2 Let's find out what that is.

3 VICE PRESIDENT HODGKINS: Okay.

4 PRESIDENT CARTER: And then let's proceed as we  
5 see fit. Staff, come back to the Board and brief us on  
6 that, and then we can get involved, if we feel that the  
7 flood control interests are not being appropriately  
8 represented.

9 MEMBER RIE: I think it's important to look at the  
10 funding for perpetual maintenance and O&M of the flood  
11 control system. And also the capital costs of the -- and  
12 the improvements that need to happen as a result of these  
13 sustained flows that are -- it's probably very minimal  
14 now. Next to some of these levees, you probably have  
15 little or no water. And they are asking for 4,000 CFS and  
16 up on a regular basis.

17 MR. HILL: Right. These are pulse flows. They  
18 are for the migration of the fish during certain times of  
19 the year. But then again, they are going to be initiating  
20 those in October of '09. So two years from now.

21 PRESIDENT CARTER: So if there's no objections,  
22 would we like to direct staff to do that? And we'll -- is  
23 it possible to get an update on that next month?

24 GENERAL MANAGER PUNIA: I -- there is no  
25 coordination. It really hasn't taken place recently.

1           SUPERVISING ENGINEER FUA: I don't think there is  
2 any real work being done right now. They are just in the  
3 planning stage. And what you are presenting to the Board  
4 is actually --

5           MR. HILL: -- what's in the settlement agreement.

6           SUPERVISING ENGINEER FUA: The settlement  
7 agreement.

8           And they haven't really worked on the details on  
9 that because there isn't a federal implementing  
10 legislation yet. And that's the holdup.

11          PRESIDENT CARTER: Can we make a few phone calls  
12 and get a copy of this MOU?

13          SUPERVISING ENGINEER FUA: I have a copy of the  
14 MOU.

15          PRESIDENT CARTER: So next month, can you tell the  
16 Board what the MOU says and who is representing flood  
17 control interests in this implementation?

18          SUPERVISING ENGINEER FUA: The -- it's me and  
19 Reggie Hill.

20          GENERAL MANAGER PUNIA: I think the way -- that  
21 DWR is in the driver's seat and they asked us to  
22 participate in this and be nominated. I think we informed  
23 the Board that Dan will be our representative to represent  
24 the Division of Flood Management and the Reclamation  
25 Board's interest in this coordination, monthly meeting.

1           For a while, it was pretty regular. But after  
2 Nancy, our chief counsel -- she was chairing these  
3 meetings -- I forgot her last name. Sarasino -- left.  
4 And I haven't seen those meetings taking place. But then  
5 based upon your recommendations, we will check with Paula  
6 Landis. She's the DWR in charge, and then we can report  
7 back you, where we are on this. I think the things have  
8 slowed down. I think those meetings are now taking place.  
9 I think Dan is correct. And most likely, they are waiting  
10 for the federal legislation.

11           MEMBER RIE: But is there draft legislation that  
12 you reviewed to see if there's funding for the levees and  
13 flood control?

14           SUPERVISING ENGINEER FUA: Well, the legislation  
15 actually just said, you know, federal -- the feds  
16 provide -- I believe the draft that I have seen was like  
17 provide \$500 million for the project. And congress has a  
18 difficult time finding that amount. That's the real  
19 problem there.

20           And then we have a congressman from -- Devin  
21 Nunes. He is against that settlement agreement. So  
22 that's another problem there. And then --

23           MEMBER RIE: Are there any more details besides  
24 the dollar figure?

25           SUPERVISING ENGINEER FUA: On the legislation?

1 MEMBER RIE: Yeah.

2 SUPERVISING ENGINEER FUA: I have copy of the  
3 legislation.

4 MR. HILL: You could find it on the Web, too.  
5 Just go to Senate or the House, and under S 27 and HR 24.  
6 It will tell you what the language is and where it's at.

7 VICE PRESIDENT HODGKINS: I do think it's  
8 important, before some legislation gets passed, to make  
9 sure, at least, that somebody at the federal level or at  
10 the legislative level has thought about -- you know,  
11 there's already an agreement between the federal  
12 government and the Board on the flood control aspects of  
13 this.

14 And now somebody is appropriating money for  
15 another project that overlaps that without going back and  
16 necessarily being consistent with the current agreement.

17 And that's a little bothersome to me, only in that  
18 I think, you know, at some point we end up -- we, the  
19 state, end up holding the bag on flood control. And then  
20 we, the state, will want to fix that. And we will --  
21 while we do want to do that, it's going to be all state  
22 money.

23 And I look to Scott to think this through. I  
24 mean, you've been really good on helping me to clearly  
25 understand the nature of our agreements with the federal

1 government, through the O&M manual and the project  
2 cooperative agreements. And here, it seems like the  
3 courts and congress are modifying one of those without  
4 perhaps even realizing it exists.

5 LEGAL COUNSEL MORGAN: I think that is a  
6 suggestion to work with staff to include a legal review  
7 next month as well.

8 VICE PRESIDENT HODGKINS: Only to the extent  
9 that's what's in the interest of the Board.

10 PRESIDENT CARTER: I think that's in the general  
11 interest of the Board.

12 LEGAL COUNSEL MORGAN: I will be happy to do it.

13 PRESIDENT CARTER: So Mr. Hill, I want to thank  
14 you very, very much for providing a comprehensive and very  
15 clear explanation of your concerns on a very, very complex  
16 and big project. So thank you very much. That was very,  
17 very helpful.

18 MR. HILL: I needed that for myself too. So as I  
19 was putting this together, I made sure that I understood  
20 what I was trying to tell you.

21 And also, to give you an update too that --  
22 remember, on your tour, when you were out on the ground,  
23 there we had some levee repair issues, that we were  
24 working with DWR and the Corps to get that addressed. And  
25 it looks like something may occur in the summer of '08.



1           And that's one of the things that I've addressed  
2   with Paula Landis at DWR is, we are doing some levee rehab  
3   for some levees that were damaged in '06. But we're  
4   spending money that we may be removing or altering these  
5   monies with river restoration. I said, there's got to be  
6   some coordination involved to see if there's some kind of  
7   minimal cost -- cost issue that we can address.

8           So they are looking at that. How it evolves, I  
9   don't know. But I'm just saying that at this point, we're  
10  working with DWR and the Corps that in the summer of '08,  
11  there should be some work done on the ground.

12           PRESIDENT CARTER: Great. Thank you very much.

13           MR. HILL: You bet.

14           PRESIDENT CARTER: Let's take a ten-minute recess.

15           We will be back at 4 o'clock.

16           (Thereupon a break was taken in  
17   proceedings.)

18           PRESIDENT CARTER: Ladies and gentlemen, shall we  
19  continue? We're on the home stretch. We only got a  
20  couple of minor things yet today. First would be our  
21  consent calendar.

22           And my sincere apologies to Mr. Fong for making  
23  you wait all day to present this information. Sorry.  
24  That's the way the cookie crumbles, I guess.

25           MR. FONG: Well, thank you, President Carter and

1 Members of the Board, General Manager Punia.

2 Jeff Fong with the Department of Water Resources.

3 I'm here to present the consent calendar. Two of the  
4 items -- the reason I'm here to present is, two of the  
5 items I have some changes which you do not see in your  
6 Board packet, and those are items 8A and 8C. And those  
7 changes consisted of additions to the language in the  
8 special condition for the lease.

9 And I will be reading that into the permit, just  
10 shortly. These items deal with agricultural leases along  
11 the -- these two items, which have a special condition  
12 along the east levee of the Sutter Bypass. There are  
13 narrow strips of land of a hundred feet wide, at the  
14 widest width, and property is being leased to adjacent  
15 property owners. And there's no other access for anybody  
16 else to lease that property. This is property where the  
17 Department has the obligation to maintain it and also to  
18 keep a drain clear in the area.

19 And it's to the benefit of the Department to lease  
20 to these people because they do farm the property, they  
21 keep people off the property, and they keep it mowed in  
22 the offseason.

23 I did inform the -- these special conditions came  
24 in pretty late in the review process. We have some  
25 sharp-eyed people who looked at the lease again and

1 thought that, well, maybe we needed some extra conditions.

2 And there are good ones to be put in here.

3 And I did contact the property owners, and they  
4 are okay with having these added to the lease.

5 SECRETARY DOHERTY: What are you adding?

6 MR. FONG: I will read them right now.

7 SECRETARY DOHERTY: Okay.

8 MR. FONG: Basically what they are doing is -- the  
9 conditions that protect the toe of the levee. But first,  
10 just the special condition that's being added:  
11 Agricultural activities, including the use of machinery,  
12 shall not encroach upon the levee section."

13 The next one: "The land adjacent to the levee toe  
14 shall be sloped away from the levee to promote drainage  
15 and prevent saturation of the levee toe area."

16 The next one: "Any damage to the levee shall be  
17 repaired as soon as possible, but in no case later than  
18 November 1 of the year in which the damage occurred."

19 Also, "The depth of any tilling operation shall  
20 not intersect the slope of a subsurface line projected  
21 below ground from the levee toe at slope of 2:1, two  
22 horizontal to 1 vertical."

23 And lastly, "No permanent plants shall be planted  
24 on the leased premises. For example, fruit and nut  
25 bearing trees or deep-rooted vines such as grape vines are

1 not allowed."

2 So these are the additional provisions to be put  
3 in two leases, to provide some protection for the levee  
4 section.

5 SECRETARY DOHERTY: So they keep it mowed and  
6 plowed. They don't grow crops on it.

7 MR. FONG: They do grow crops there.

8 SECRETARY DOHERTY: What kind of crops? Do you  
9 have any idea?

10 MR. FONG: I talked to the maintenance supervisor.  
11 He had some wheat out there, the last time we talked.  
12 Just field crops, wheat.

13 SECRETARY DOHERTY: What?

14 PRESIDENT CARTER: A row of field crops.

15 SECRETARY DOHERTY: I just thought the rent was a  
16 little bit cheap.

17 MR. FONG: It's primarily cheap because it's an  
18 odd-shaped piece of land. And plus from time to time, DWR  
19 maintenance comes there and cleans the drainage ditch out.  
20 When they clean the drainage ditch out, they don't throw  
21 the sediment onto the adjacent property owners, they throw  
22 it on our property. And then at that point, the farmer  
23 has to incorporate that material back in there. It's also  
24 cheap, because if we didn't lease it to them, no one else  
25 would lease it.

1 SECRETARY DOHERTY: So they are maintaining it for  
2 us?

3 MR. FONG: Yes, I'm sorry. I stepped away because  
4 my phone is affecting the microphone.

5 SECRETARY DOHERTY: Do you need these approved,  
6 one by one?

7 MR. FONG: The way they are done on the consent  
8 calendar, yes.

9 SECRETARY DOHERTY: Well, then I make a motion --

10 PRESIDENT CARTER: I just wanted -- I had a  
11 question. So you proposed five different changes,  
12 amounting to the lease language for --

13 MR. FONG: 8A and 8C.

14 PRESIDENT CARTER: 8B and 8C. They do not apply to  
15 8A or 8D.

16 MR. FONG: No. I'm sorry. The changes would be  
17 to 8A and to 8C.

18 PRESIDENT CARTER: 8A and 8C. They do not apply  
19 to 8B or 8D.

20 MR. FONG: Correct. 8D is pipeline easement to  
21 the City of Fairfield.

22 PRESIDENT CARTER: And the 8B?

23 MR. FONG: 8B is a narrow strip of land near the  
24 river, but nowhere near a levee.

25 SECRETARY DOHERTY: With the five amendments

1 added, I would ask that we approve the lease No. 2007-1-RB  
2 in Sutter County.

3 PRESIDENT CARTER: Did you say that we can approve  
4 the consent calendar, or do we have to do these one by  
5 one?

6 SECRETARY DOHERTY: He said one by one, because  
7 they are all different.

8 LEGAL COUNSEL MORGAN: Two of them are still on  
9 consent, B and D. You can approve those consent.

10 The other two have been taken off consent, but the  
11 amended language proposals are identical for both. You  
12 could approve both with the same amendments.

13 SECRETARY DOHERTY: So A and C, we can approve.

14 PRESIDENT CARTER: You can approve two and two: A  
15 and C together; B and D together.

16 SECRETARY DOHERTY: Okay. Then I make a motion  
17 that we approve A and C with the five amendments added.

18 VICE PRESIDENT HODGKINS: Second.

19 PRESIDENT CARTER: All right.

20 All those in favor, indicate by saying "aye."

21 (Ayes.)

22 PRESIDENT CARTER: And opposed?

23 The motion carries.

24 And a motion for B and D?

25 VICE PRESIDENT HODGKINS: I will move the approval

1 of Items B and D.

2 PRESIDENT CARTER: Okay. Which are still on the  
3 consent calendar.

4 SECRETARY DOHERTY: Then I will second it.

5 SUPERVISING ENGINEER FUA: We have a motion and a  
6 second.

7 All those in favor, indicate by saying "aye."

8 (Ayes.)

9 PRESIDENT CARTER: All those opposed?

10 That motion carries.

11 VICE PRESIDENT HODGKINS: Mr. Fong, I would like  
12 to compliment you or whoever wrote these staff reports and  
13 let you know that this is the perfect kind of a staff  
14 report, because they're less than a page. I am able to  
15 determine whether I want to dig any deeper into this or  
16 not, because all that information was in that staff  
17 report. It was well done.

18 MR. FONG: Thank you. I try to keep it to a  
19 one-page, if I can.

20 VICE PRESIDENT HODGKINS: Very good.

21 MR. FONG: Thank you.

22 LEGAL COUNSEL MORGAN: And, you know, Mr. Fong is  
23 retiring.

24 SECRETARY DOHERTY: But he will be here next  
25 month, won't he?

1           LEGAL COUNSEL MORGAN: That's about it.

2           MR. FONG: I will be here.

3           But Olivia Rivera is my replacement, and she's  
4 sitting in the audience right now. The wonderful thing  
5 about Olivia, she is a notary. So we won't have to find a  
6 notary. And Olivia be presenting next month, but I will  
7 be here through the middle of December. I'm still working  
8 on Rec Board items.

9           PRESIDENT CARTER: Great. Thank you. Thank you  
10 very, very much.

11          MR. FONG: And I don't mind being here so late,  
12 because obviously I would have missed Reggie's  
13 presentation if I hadn't stayed.

14          PRESIDENT CARTER: Thank you. And good luck.  
15 Thank you.

16          MR. FONG: Thank you.

17          PRESIDENT CARTER: Okay.

18          MEMBER BURROUGHS: I just have a quick question:  
19 If the renewal leases are from May to April of every -- is  
20 that pretty much when leases are set up, between May --  
21 through April --

22          MR. FONG: I'm assuming -- because these leases  
23 have been ongoing for about 20 years now, for the same  
24 individuals at the same locations. I'm assuming the lease  
25 was set up for the convenience of the lessee in terms of



1 the growing season.

2 MEMBER BURROUGHS: Oh, okay.

3 MR. FONG: It's just my guess.

4 MEMBER BURROUGHS: It just seems like it should be  
5 earlier, or annually, from January or -- you know, just  
6 seems year to year would be an easier way to handle the  
7 lease. But it was just a question.

8 And then also if we're behind renewal on the  
9 leases, then there is liability insurance because....

10 MR. FONG: We're a little bit behind on this,  
11 primarily because when I first decided to retire, I was  
12 hoping that I could get Olivia to work on these because  
13 these are fairly simple. It would have been a little bit  
14 of a good entry for her. But however, as she's not gone  
15 into the job yet, she still has her workload, and we're  
16 unable to transition, so this got behind.

17 MEMBER BURROUGHS: Okay.

18 PRESIDENT CARTER: Thank you, very much.

19 We're on to Item 14, Board Comments, Task Leader  
20 Reports.

21 Do -- shall we just go down the table. Rose  
22 Marie, do you have anything additional to report, other  
23 than the interagency or something in addition?

24 MEMBER BURROUGHS: I didn't -- Jay will be able to  
25 report on the interagency, because I did not attend it

1 this week. But I did want to thank publicly Steve Dawson  
2 because he stepped up to the plate to help us with the  
3 roundtable and transportation. So thank you very much.

4 PRESIDENT CARTER: Okay. Lady Bug?

5 SECRETARY DOHERTY: I have been to a couple of TAC  
6 meetings and Sacramento River Conservation Area forum,  
7 where they didn't have a quorum.

8 One of the main concerns still is vegetation on  
9 levees. But I think that the roundtable discussion  
10 results, once they are known, will aid people when they  
11 know they don't have to go out and implement this right  
12 away. So those were primary things.

13 PRESIDENT CARTER: Okay. Teri?

14 MEMBER RIE: Back to Delta Levee Subventions, as  
15 we discussed earlier, the policies and guidelines are  
16 something that we approve annually. And I didn't get any  
17 suggestions from the Board on the Rec Board's number one  
18 priority projects. So I would like to encourage you all  
19 to continue to think about that.

20 The Subvention Program is the board's program. We  
21 do have an opportunity to come up with our priorities and  
22 implement them into the program. So I would just like to  
23 encourage you guys to continue to think about that. And  
24 let me know if you have any ideas.

25 Thank you.

1           PRESIDENT CARTER:   Mr. Hodgkins?

2           VICE PRESIDENT HODGKINS:   Nothing additionally.

3           PRESIDENT CARTER:   Ms. Suarez?

4           MEMBER SUAREZ:   Nothing.

5           PRESIDENT CARTER:   If it is -- if it's okay with  
6   the Board, I would like to ask Emma to try and follow  
7   closely some of the legislative initiatives that are  
8   ongoing as part of a task for the Board so that she can  
9   remain apprised and be closer to that than -- and work  
10   with DWR and Mr. Schimke to keep the Board up to speed and  
11   perhaps represent the Board on some of those discussions.  
12   So if that's okay, I would like to ask Emma to do that.

13          MEMBER BURROUGHS:   Mr. President, I also wanted to  
14   just mention three things that I also attended, that I  
15   forgot.   I did attend the Dennis Cardoza public meeting  
16   for a FEMA presentation; as well as a -- Ricardo had  
17   invited me to the Lower San Joaquin Subcommittee Meeting;  
18   and I also attended a -- the Delta Water Plan for -- in  
19   Stockton.   And I found them all to be very informative and  
20   look forward to attending future meetings.

21          Thank you.

22          PRESIDENT CARTER:   Great.   Okay.   If there's  
23   nothing else on Board comments, any general comments?

24          VICE PRESIDENT HODGKINS:   I have a question:   DWR  
25   is holding workshops -- or I'm not sure exactly what they

1 are called. But they are talking about joining the plan  
2 of flood protection and the water plan.

3 And I wonder if anybody understands how that might  
4 work and whether it would be of interest to the Board to  
5 have somebody perhaps come to a Rec Board meeting and at  
6 least give us sort of an informational briefing on what  
7 they are thinking. Because either one is hard; putting  
8 two together seems like it's really hard.

9 PRESIDENT CARTER: Well, that's one of the  
10 meetings that Rose Marie attended down in Stockton. It  
11 may be worthwhile. I need to ask DWR to brief us on that.  
12 So we can certainly ask that.

13 GENERAL MANAGER PUNIA: We will invite DWR to  
14 brief you as part of the DWR report. We can arrange it  
15 specifically for us.

16 PRESIDENT CARTER: This Flood Protection Corridor  
17 Program, they are also holding a series of workshops  
18 around the state: October 1st in Red Bluff; October 2nd  
19 in Sacramento; October 3rd in Fresno; October 4th in Los  
20 Angeles; and October 5th in San Diego. That's a whirlwind  
21 of a tour, all in one week.

22 But basically, these are presubmittal workshops  
23 for potential applicants for the grant for the \$24 million  
24 for this Flood Protection Corridor Program. So I'm sure,  
25 if any of the Board members wish to attend any of those,

1 to come up to speed, they are welcome.

2 I have the specific schedules and addresses and  
3 times if you want those. I will go ahead and give that to  
4 Jay.

5 Okay?

6 MEMBER BURROUGHS: Good.

7 PRESIDENT CARTER: With that, we'll move on to  
8 activities of the general manager, the remaining  
9 activities of the general manager.

10 GENERAL MANAGER PUNIA: I'm glad to report that  
11 finally we are able to send the Section 408 letter to the  
12 Corps. And I want to thank Board Member Teri Rie and Vice  
13 President Butch Hodgkins for drafting the initial draft of  
14 that letter. And then keeping the pressure on, to get  
15 this letter out.

16 This letter is basically asking two things: One  
17 is that the Corps -- the letter has gone to General Van  
18 Antwerp asking the Corps to establish an ad hoc committee  
19 in which participants of the headquarter division  
20 district, DWR, and the Reclamation Board staff can work  
21 together to develop some kind of a memorandum of  
22 understanding on the 408 process.

23 The second question of this letter is to delegate  
24 the authority of 408 approvals to the district level for  
25 routine projects, like landside berm or strengthening in

1 place-type of projects, rather than those federal projects  
2 go all the way to Washington D.C.

3 So thank you for your help.

4 We got a letter from Family Water Alliance  
5 expressing some concerns on our permit conditions. We  
6 have issued a permit for putting the fish screens. And  
7 the condition being posed, that the Reclamation Board  
8 staff impose a condition that while they are putting  
9 screens, they should also get the pipes certified by a  
10 certified engineer, that the old pipe is structurally  
11 safe. And the old pipes, if the pipe is really old -- and  
12 we are making this a standard policy -- that we will be  
13 asking the applicant to get this types of certification.

14 And the Family Water Alliance has expressed some  
15 concerns. But they understand that it's in the interest  
16 of the public safety that we are asking them to certify  
17 that a pipe is structurally sound.

18 MEMBER RIE: And Jay, when you get letters like  
19 that, would it be possible for the Board members to get  
20 copies?

21 GENERAL MANAGER PUNIA: Yes.

22 MEMBER RIE: Okay. Thank you.

23 GENERAL MANAGER PUNIA: And we got a letter from  
24 Senator Sam Aanestad regarding erosion at the Phelan  
25 levee, basically supporting Mr. Les Heringer's position

1   that based upon Water Code Section 8361 that the  
2   Department is obligated to maintain the flood control  
3   features in the Butte Basin area.

4           The Department is preparing a response, a letter,  
5   to both the Reclamation Board and to the Department of  
6   Water Resources. And I have talked to Dave Gutierrez and  
7   Keith Swanson. They are taking the lead in preparing the  
8   response. And the thinking is that they will have a giant  
9   letter back to the senator, providing our response and the  
10  Department of Water Resources' response in this issue.

11           PRESIDENT CARTER: The -- just one comment on  
12  that. We don't know what DWR's position is yet on the  
13  Phelan Levee. When we know that, that letter will  
14  probably come before the Board for a discussion, because  
15  staff doesn't know what the Board's position is on that  
16  and whether or not the Board agrees with DWR. So that  
17  would probably come back to us before that letter gets  
18  sent out. It may or may not be a joint letter, depending  
19  on whether or not we agree or disagree.

20           SECRETARY DOHERTY: I would like to address the  
21  Family Water Alliance's concern. Their concern was that  
22  they were told to go ahead, which they did do. And at no  
23  time did anyone mention the fact that now the pipes must  
24  go up and through the levees. And that was their concern.  
25  They felt that they should have been told up front. So if

1 these projects are going to continue to take place, people  
2 have to be told what the requirements are.

3 GENERAL MANAGER PUNIA: I think the point is well  
4 taken. Our inspector was not well educated on this issue.  
5 And we will try our best that when they are in the field,  
6 that they are versed with the Title 23 requirements.

7 I think at the last Board meeting, I shared the  
8 letter from City of Roseville and City of Folsom and San  
9 Juan Water District, asking the Board to modify our  
10 project cooperation agreement to include the water supply  
11 project in our Folsom Dam modification project.

12 Based upon our staff counsel's guidance that we  
13 don't have the authority to participate in the flood  
14 control project, we are coordinating with the Department  
15 of Water Resources staff to prepare a response.

16 And in the meantime, the discussions are ongoing  
17 among the Sacramento Area Flood Control Agency, Bureau of  
18 Reclamation, Department of Water Resources, and they  
19 invited us to participate in this too. The issue is still  
20 ongoing, but based upon the counsel's advice, we will  
21 send -- planning to send a letter, telling them that we  
22 don't have the authority to participate in the flood  
23 control project, on the water supply projects.

24 Scott may have --

25 LEGAL COUNSEL MORGAN: I just wanted to clarify.



1 You had misspoken, and you got some quizzical looks. The  
2 Board has authority to participate in the flood control  
3 project and not the water supply project for the city and  
4 the other entities have asked for. And they propose some  
5 legislation that would give the Board that authority.

6 GENERAL MANAGER PUNIA: And a quick update on our  
7 new hires. As you may recall, in our '07 -- fiscal year  
8 07/08 BCP, we got two positions. One position is already  
9 filled with Eric Butler; and the second position we are in  
10 the process of filling. And Lorraine is working on the  
11 paperwork so that we can advertise our position.

12 The position, which was approved, was for the  
13 associate level. But we have discussed as a group and  
14 decided to downgrade the position to a staff service  
15 analyst position. And that's what we are trying to fill  
16 as soon as possible.

17 And Board Member Rose Marie asked me to quickly  
18 give you a briefing on the interagency collaborative  
19 meeting. The main topic of discussion was the vegetation  
20 management -- I will be just brief -- what we were able to  
21 accomplish in the roundtable briefing. And then DWR staff  
22 gave an update on the small erosion sites.

23 We've been coordinating on two bridges of the  
24 Union Pacific Railroad. And Dan has been involved in  
25 talking to them. Dan will give a quick update on those.

1           SUPERVISING ENGINEER FUA:  What we are working on,  
2   two Union Pacific Railroad tracks bridge replacement  
3   project.  The first one is the one that got burned in  
4   March, here in Sacramento, along the American river  
5   floodway.  We issued a letter of approval to -- for  
6   them -- to allow them to repair the bridge.  The bridge is  
7   completed.  One of the conditions of that letter is for  
8   them to repair damages to the levee.  And the -- our  
9   levees were indeed damaged.

10           And so last Tuesday, we went to the site to assess  
11   the damage of the crown of the levee.  The staff and the  
12   U.S. Army Corps of Engineers were there.  The American  
13   River Flood Control District staff were there.  And also  
14   representatives from the Union Pacific Railroad track.

15           Our main concern is that the damage we have --  
16   that there may be damage on the cutoff wall.  So what we  
17   did last Tuesday was dug a trench up to the depth where  
18   the cap of the cutoff wall was located.  And we  
19   determined -- for which we have a geotechnical engineer  
20   from the U.S. Army Corps of Engineers.  And he determined  
21   that there was no damage to the cutoff wall.

22           So all UPR has to do is to repair the damage to  
23   the crown of the levee, which consisted of wheel rutting  
24   on the access road, and also on the side of the crack, the  
25   broken or cracked section of the chip seal.  So those are

1 the damages that were incurred, as a result of the flood  
2 fighting operation and also them using the access road  
3 for -- during the repair of the bridge.

4 So next week, they will begin repairing those  
5 damages. So bottom line is, there is no major damage to  
6 the levee.

7 In addition, we required them to do some survey  
8 points to ensure that there is no movement of the levee  
9 both laterally and vertically. And the report -- DWR did  
10 a levee geotechnical survey report, and the report said  
11 there was none. And both the Corps and DWR and the  
12 American River Flood Control District agreed with that  
13 finding.

14 The second Union Pacific Railroad bridge project  
15 that we're working right now is the one across the Bear  
16 River in Placer County, south of the city of Wheatland,  
17 near Highway 65.

18 We -- the general manager reported to you, last  
19 month, that the chief engineer and the general manager  
20 issued a stop work order for this project, as a result of,  
21 actually, a complaint from the two reclamation districts  
22 that were assigned to maintain the levees of the Bear  
23 River. This project is to replace an old bridge. And we  
24 found that part of the replacement is filling the  
25 floodplain. And Union Pacific Railroad did not have a

1 permit from the Reclamation Board. They had not notified  
2 us. So that was the reason for the stop work order.

3 Later on, a couple days later, Union Pacific  
4 Railroad submitted a report, an application for an  
5 encroachment permit, to us, and we found out that they  
6 have no permits from the Department of Fish and Game. And  
7 those especially -- they declared, themselves, that they  
8 are exempt from CEQA. In California, only public agencies  
9 can make that determination.

10 So subsequently, they submitted a revised  
11 application to us, revising the repair, that instead of a  
12 200-foot fill, now they are reducing it to 94-feet fill.

13 Fish and Game recently visited the site and  
14 confirmed that they -- UPR did indeed need an alteration  
15 agreement permit. But then Fish and Game said they  
16 couldn't issue the permit anymore because they will be  
17 starting the work, so they are going to refer them to  
18 district attorney for enforcement action.

19 Then we also heard from the U.S. Army Corps of  
20 Engineers that they are going to review the project to  
21 make sure that Section 404 is not needed.

22 So right now, we are in no position to allow Union  
23 Pacific Railroad track to restart their project.

24 MEMBER RIE: Does it need to come back before the  
25 Board for an enforcement action by our Board?

1           SUPERVISING ENGINEER FUA: Well, our plan is to  
2   issue them a permit after they comply with our  
3   requirements. Like hydraulic analysis, they have  
4   submitted hydraulic analysis. But most especially, the  
5   CEQA compliance.

6           MEMBER RIE: But shouldn't we have an enforcement  
7   action even though they are planning on applying for our  
8   permit? And even though you plan on giving them one,  
9   shouldn't we still do an enforcement action?

10          GENERAL MANAGER PUNIA: That was not our plan, I  
11   think. We got in touch with the Union Pacific Railroad  
12   Company, and they were willing to comply and work with us,  
13   and they were willing to fulfill our requirements. So as  
14   soon as they have all the pieces, then we can issue them a  
15   permit. That's the plan at this time.

16          SUPERVISING ENGINEER FUA: Plus our enforcement  
17   action, really, we have no penalty. Unlike the regional  
18   Board or Fish and Game, we -- what else can we do, if they  
19   comply with what we require them to do, instead of  
20   referring them to the attorney general, probably be better  
21   to work with them and -- you know, make the project work  
22   for us in terms of flood control.

23          GENERAL MANAGER PUNIA: I want to stress, they are  
24   pretty cooperative. Once their management realized that  
25   they don't have the permit, they stopped the work

1 immediately. I think they satisfied us that they are  
2 willing to comply with our regulations.

3 SECRETARY DOHERTY: Jay, I have a question for  
4 you.

5 Before our next meeting, TRLIA will have submitted  
6 their budget and their audited records for the last three  
7 years to the department, and we will know that ahead of  
8 time?

9 GENERAL MANAGER PUNIA: So you want to know  
10 whether they have done so or not?

11 SECRETARY DOHERTY: Yes. Yeah. Yeah.

12 GENERAL MANAGER PUNIA: We'll check with the  
13 department for that information.

14 SECRETARY DOHERTY: Because they will want  
15 answers, and we'll have to be prepared to give them some.

16 GENERAL MANAGER PUNIA: Okay. We'll check with  
17 them. So the question is whether they have submitted the  
18 audit to the Department of Water Resources or not.

19 SECRETARY DOHERTY: As required.

20 GENERAL MANAGER PUNIA: As required.

21 SECRETARY DOHERTY: And have made their budget  
22 out.

23 GENERAL MANAGER PUNIA: Okay. We'll check on that  
24 and have it ready for you.

25 SECRETARY DOHERTY: Thank you.

1           GENERAL MANAGER PUNIA: I think that concludes my  
2 general manager's report.

3           Thank you.

4           PRESIDENT CARTER: Thank you, Mr. Punia.

5           Next on the agenda is Future Agenda. I think  
6 everybody in the packet this morning received a copy of a  
7 draft agenda for October 19th. The first page, as usual,  
8 is kind of boilerplate.

9           LEGAL COUNSEL MORGAN: I will just -- I will want  
10 to be adding something to the closed session in addition  
11 to the placeholder for the NRDC lawsuit in case the AGs  
12 have nothing to report. I will come back and talk to the  
13 Board about the Jones Tract litigation. The Board has  
14 been named in some litigation involving Jones Tract. I  
15 will report on that. It's just in the  
16 no-good-work-goes-unpunished category.

17           (Laughter.)

18           PRESIDENT CARTER: Okay. We'll add that to  
19 Item 2, under Closed Session, potentially have two topics  
20 to discuss in closed session.

21           SECRETARY DOHERTY: What about the M&T? Will that  
22 be on this next agenda? Should there be a report on that,  
23 because isn't there a study being done right now?

24           GENERAL MANAGER PUNIA: DWR responds that they are  
25 going to keep the Board apprised as part of the DWR

1 activities. So we will make sure that Rod and Keith  
2 includes that in their report to you.

3 SECRETARY DOHERTY: Thank you.

4 MEMBER RIE: Shouldn't we put it on the agenda,  
5 because it did take quite a bit of time and pushed  
6 everything else out.

7 SECRETARY DOHERTY: And if each of the Board  
8 members will look, they have a packet from May that's  
9 about this thick concerning this matter.

10 MEMBER RIE: I think we ought to put it on the  
11 agenda.

12 PRESIDENT CARTER: Okay. As a informational --

13 MEMBER RIE: Yes.

14 PRESIDENT CARTER: -- item? Okay.

15 MEMBER RIE: Possibly an action item.

16 MEMBER BURROUGHS: Possibly an action item.

17 GENERAL MANAGER PUNIA: I'm not clear what action  
18 item we can take on the M&T. I think we can ask DWR to  
19 explain their position.

20 SECRETARY DOHERTY: Well, we definitely need that.  
21 And then --

22 MEMBER BURROUGHS: At least if it's on there as a  
23 possible action item, if an action is needed we will be  
24 able to....

25 GENERAL MANAGER PUNIA: I'm not clear, in my mind,



1 because we don't have a program to address erosion.  
2 That's a Department of Water Resources program. I think  
3 we can advise or request them. The Board can -- I think  
4 the counsel may be more appropriate to answer this  
5 question, whether or not we can have an action item or  
6 not.

7 LEGAL COUNSEL MORGAN: Again, I think, yeah, the  
8 question that Jay has, is what be the action?

9 MEMBER RIE: Make a recommendation to DWR on our  
10 thoughts.

11 LEGAL COUNSEL MORGAN: I don't know if you have to  
12 have an action item to make an advisory recommendation to  
13 the Department.

14 PRESIDENT CARTER: You don't need to --

15 LEGAL COUNSEL MORGAN: You could. I don't think  
16 it's -- it's not quite the same as an action item where  
17 someone has the right to go out and build something. You  
18 are just taking collective action as to the Board to write  
19 the letter, or make a recommendation to the Department, or  
20 make a recommendation to the Board president to carry that  
21 forward to the Department during the executive meetings.  
22 That doesn't have to be an action item on the agenda, but  
23 it certainly could be.

24 PRESIDENT CARTER: Okay. We will put it on as a  
25 potential action item, depending on what the report says.

1 And we can discuss that -- or I can discuss it with staff  
2 and figure out whether or not it will be an action item or  
3 not.

4 Another item that we may want to have on, is -- as  
5 potentially an action item is the roundtable. There is  
6 another meeting of the roundtable on October 12. There  
7 may be some action requested as a result of that meeting.  
8 We don't know yet what the outcome is.

9 But if there is something that the group wants to  
10 take action on, collectively, then we need to bring that  
11 back to the Board to get the Board's concurrence on what  
12 that might be. So we'll probably have something on the  
13 agenda with regard to the roundtable, a placeholder for  
14 that.

15 MEMBER RIE: And then could we possibly approve  
16 sending a letter or approve the Board president to make a  
17 recommendation to the Corps?

18 PRESIDENT CARTER: Or it could be, the group has  
19 tasked one of the agencies, Fish and Wildlife Service, to  
20 draft a memorandum of understanding of basically codifying  
21 the relationship and the goals and the objectives of the  
22 roundtable. And if that's complete, then maybe we have an  
23 MOA or something for the Board to consider on whether or  
24 not they want to participate in that capacity. So there  
25 are a variety of things that may come out of that.

1 MEMBER BURROUGHS: Good start.

2 PRESIDENT CARTER: Okay. Was there anything else  
3 that came out of today?

4 MEMBER RIE: I think it was someone from DWR -- I  
5 forget who now. And he said, in three weeks, the Delta  
6 Risk Study would be out, the first official public draft.

7 Maybe Steve or Dan, do you remember?

8 SUPERVISING ENGINEER FUA: That was Mike  
9 Mirmazaheri, the Dreams.

10 MEMBER RIE: What's it called?

11 SUPERVISING ENGINEER FUA: The Dreams study.

12 SECRETARY DOHERTY: Mr. Punia said that he would  
13 send us a copy of what has come out so far. One is the  
14 Vision and one is the Dreams.

15 GENERAL MANAGER PUNIA: I will check what draft is  
16 available. I can circulate -- we will make hard copies  
17 and mail it to all the Board members.

18 MEMBER RIE: Now, is that the \$10 million study,  
19 or is the Dream study something different?

20 GENERAL MANAGER PUNIA: I think there are two  
21 things going on: One is the Dream. They have the Blue  
22 Ribbon Task Force that's developing the Delta Vision. And  
23 my perception is that they are going to have the Delta  
24 Vision report by December. So the draft -- I think the  
25 draft may be all ready now. So --

1 MEMBER RIE: It is.

2 GENERAL MANAGER PUNIA: The second report is the  
3 Dream study. That's Mike Mirmazaheri reported that the  
4 Phase 1 study is out. So I will talk to Dave Mraz and can  
5 provide you the copies. If you want a briefing, then I  
6 can invite Dave Mraz to give you a briefing.

7 MEMBER RIE: Is the Dream study the Delta Risk  
8 study, the one that they spent \$10 million on?

9 GENERAL MANAGER PUNIA: That's correct.

10 MEMBER RIE: Okay. I think we would like to have  
11 a briefing on that.

12 GENERAL MANAGER PUNIA: I can talk to Dave Mraz.  
13 And then depending upon his availability, if he's  
14 available, then I may ask him to give you a quick  
15 briefing.

16 MEMBER RIE: And the only reason I ask is, there's  
17 a lot of recommendations in that study that are coming out  
18 that are of public interest. And I think this Board is  
19 the appropriate forum for the public to give comments on  
20 that.

21 I know DWR has various workshops scattered  
22 throughout the state, but I don't think those are well  
23 publicized. But if we were to have a briefing, it would  
24 give members of the public an opportunity to comment.

25 GENERAL MANAGER PUNIA: Okay.

1           PRESIDENT CARTER:   Okay.   Anything else?

2           MEMBER BURROUGHS:   Not for the agenda.   But I just  
3   want to remind you about the communiqué so it's part of  
4   the record for today.

5           PRESIDENT CARTER:   Did that.

6           MEMBER BURROUGHS:   Okay.

7           PRESIDENT CARTER:   Anything else?

8           What I would -- a thought for you all to consider.  
9   We have been talking about having a meeting up in northern  
10   California, Sacramento valley.   Originally, it was  
11   scheduled for this month, but things didn't work out very  
12   well.

13           Considering the potential for the Three Rivers  
14   application coming -- setback levee application coming  
15   before the Board in October, perhaps we could have next  
16   month's meeting up in the Valley.   We could have a tour of  
17   the Feather River setback, the Bear River setback, the  
18   Sutter County setback.   They are all in the same general  
19   region.

20           And we could have a meeting up in the Sacramento  
21   Valley, next month.

22           Is that interesting to the Board?   And perhaps we  
23   could do all those tours before our business meeting, and  
24   then you all get a chance to kick the tires before the  
25   final presentation is made and consideration for both.

1           VICE PRESIDENT HODGKINS: And then we'll come over  
2 to your house for dinner.

3           PRESIDENT CARTER: We can do that too.

4           MEMBER BURROUGHS: I think that's a great idea.

5           PRESIDENT CARTER: We can see the Mouton Weir and  
6 the Colusa Weir and all those great structures.

7           VICE PRESIDENT HODGKINS: How far is it up to the  
8 Phelan Levee.

9           GENERAL MANAGER PUNIA: Two and a half hours'  
10 drive.

11          PRESIDENT CARTER: From Colusa, it's only 35  
12 minutes. So we could potentially do that as well. We'll  
13 work out the logistics. But if everybody's agreeable,  
14 then we'll work towards having our next meeting in the  
15 Sacramento Valley.

16          SECRETARY DOHERTY: I can show you the Sutter  
17 Bypass and the Tisdale Weir.

18          PRESIDENT CARTER: Perhaps the new sites --  
19 reservoir site.

20          MEMBER RIE: The other way to do it is to just  
21 pick a day and have that be a tour day and then have the  
22 regular meeting here.

23          PRESIDENT CARTER: We could do that too.

24                What's the Board's pleasure?

25          MEMBER SUAREZ: I like your idea, Ben.

1           GENERAL MANAGER PUNIA: From staff's perspective,  
2 we can keep the meeting here just because it is easier.  
3 And we would be glad to arrange a tour.

4           VICE PRESIDENT HODGKINS: One thing the Board's  
5 occasionally did in the past I think is they might do the  
6 tour the day before the meeting and do it for a half a day  
7 or from 10:00 o'clock on, and then do the meeting on the  
8 next day. And that sort of takes the pressure out of, in  
9 terms of trying to get through business and also adequate  
10 timing for a tour. So that's a possibility too.

11          PRESIDENT CARTER: So we have a two-day meeting?

12          VICE PRESIDENT HODGKINS: Yeah.

13          PRESIDENT CARTER: And I know there's good  
14 facilities in that area.

15          MEMBER BURROUGHS: My preference would be -- that  
16 would be my second choice. I would like to go with Ben's  
17 recommendation first.

18          PRESIDENT CARTER: Which was?

19          MEMBER BURROUGHS: The one-day meeting and tour  
20 all in the one day, in the Sacramento Valley. If that's  
21 possible, that's my first choice.

22          PRESIDENT CARTER: Depending on the length of the  
23 agenda, we may have to do it two days.

24          GENERAL MANAGER PUNIA: I think that may be too  
25 much to accommodate in one day, the tour.

1           The agenda is going to be lengthy, it looks like,  
2   the way that if we have the TRLIA, Atlas Tract, and these  
3   informational briefings, and then to have a tour and all  
4   this in one day, I think it's -- we are --

5           PRESIDENT CARTER:   It's probably ambitious.

6           GENERAL MANAGER PUNIA:   Yes, it's too ambitious in  
7   my mind.

8           MEMBER RIE:   And with the tours, as hard as we try  
9   to keep it on track, I don't think we've ever had a tour  
10   where we stayed on track.

11           I mean, the tours tend to go hours over.   And I  
12   would hate for us to have to start the meeting at  
13   4:00 o'clock in the afternoon.

14           PRESIDENT CARTER:   Right.   We did stay on track  
15   one time.   It was a Sacramento tour.   In any case, we're  
16   notorious for time keeping.

17           Well, I will work with staff.   We'll -- I think,  
18   realistically, we're looking at a two-day meeting, perhaps  
19   two days concurrently to do everything.   And so if that's  
20   okay with the Board, then we'll do that.

21           Any other things on the future agenda?

22           None?

23           Then we're adjourned.

24           Thank you very much.

25    //



(Thereupon the Reclamation Board meeting  
adjourned at 4:48 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## 1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. SWANK, a Certified Shorthand Reporter  
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the  
5 foregoing Reclamation Board Meeting was reported in  
6 shorthand by me, Kathryn S. Swank, a Certified Shorthand  
7 Reporter of the State of California, and thereafter  
8 transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said meeting nor in any  
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this  
13 29th day of September, 2007.

14  
15  
16  
17  
18  
19  
20  
21  
22 KATHRYN S. SWANK, CSR

23 Certified Shorthand Reporter

24 License No. 13061  
25